

# Public Utilities

*FORTNIGHTLY*



June 18, 1942

## STAGGERING TO WORK

By James H. Collins

" "

## Calling All Planes, Tanks, etc.

By Herbert Corey

" "

## Does the Average Worker Prefer Public or Private Employment?

By Alfred M. Cooper

" "

## A Great Metropolitan Utility Company Prepares for War

By James Blaine Walker

" "

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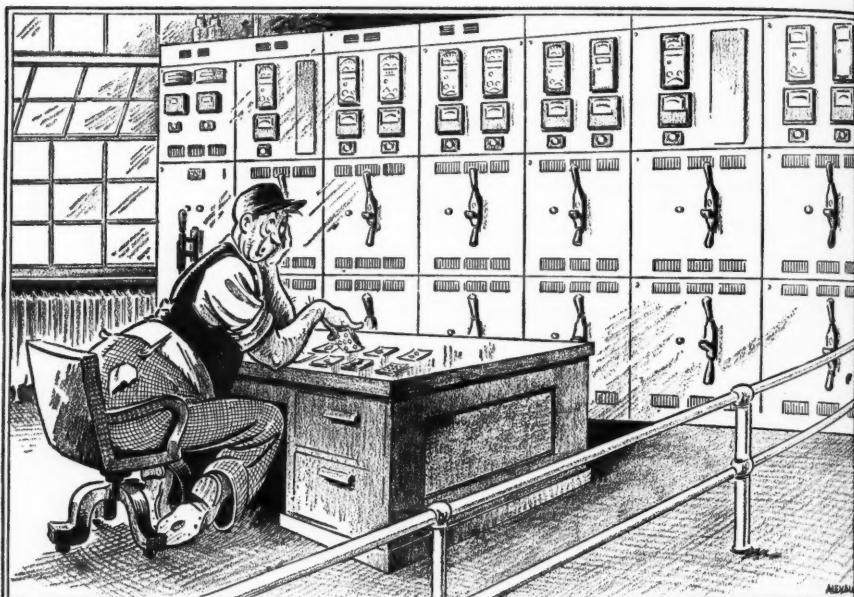
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PUBLIC UTILITIES REPORTS, INC.  
PUBLISHERS

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## PICTURE OF A MAN WHO HAS TIME ON HIS HANDS



"EVER SINCE WE GOT TH' NEW MULTUMITE SWITCHBOARD, IT'S JUST RED SEVEN ON BLACK EIGHT — BLACK TEN ON RED JACK . . . "

These days we don't know anybody who isn't busy as can be. But the point of the cartoon is correct nonetheless. Multumite Switchgear IS saving lots of attendance and maintenance in plants working full-tilt.

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AIR CIRCUIT BREAKERS AND SWITCHGEAR  
19th & HAMILTON STREETS, PHILADELPHIA, PA.





18, 1942

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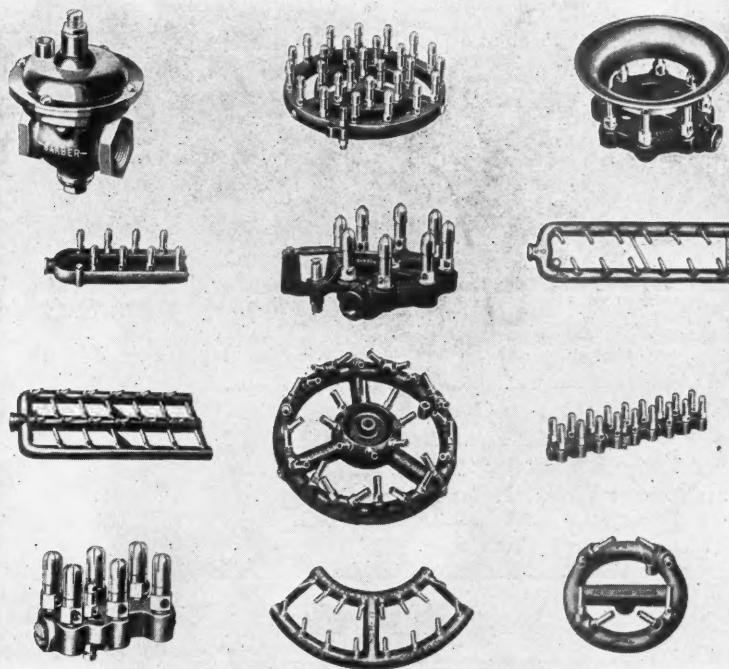
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Under the stress of national emergency, engineering resourcefulness in the gas appliance field is now at a greater premium than ever. With the necessity for conservation of every type of gas fuel, as well as materials for the manufacture of gas burning equipment, there has arisen a more imperative demand than ever before for EFFICIENCY.

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# BARBER BURNERS

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Financial Editor—OWEN ELY  
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# Public Utilities Fortnightly



VOLUME XXIX

June 18, 1942

NUMBER 13

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**Q** *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouth-piece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

## PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

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JUNE 18, 1942

Even a  
POSTER  
THREADER  
is Faster  
and Easier  
when it's the

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No. 1R



It has 4 sets of dies for 1" to 2" pipe—but from there on it's different; you can thread more pipe with it with less effort. Same size same number chaser dies are interchangeable. Posts are replaceable, only taper the thread. Handle pull is right over chasers, direct power to dies. Quick-action mistake-proof workholder—no bushings needed. All thread variations. Rugged steel and malleable strength. Priced in line with ordinary posters. See it, compare it—at your Supply House.

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**RIDGID**

Pipe Wrenches, Cutters, Threaders, Vises

Work-Saver Tools for America's Big Job in 1942

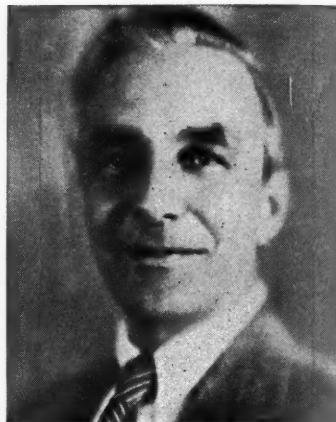


## Pages with the Editors

**W**HEN we read Herman Goering's recent pitiful complaint about the foul weather in Russia, it came as a somewhat reassuring reminder that even a 100 per cent totalitarian nation cannot control the weather. The Reichsführer has the power of life and death over all Germans and presumably over the unhappy people of the occupied countries. A Frenchman can be thrown into a concentration camp for thinking out loud. Norwegians have been fined heavily for not exploding with joy when they have been informed about the latest decrees of the Quisling government.

BUT not even the all-powerful Adolf has been able to order the elements about or decree a rise in the thermometer by even a fraction of a degree. In this respect the Führer might have recalled (in addition to the obvious precedent of Napoleon) the futile commands of the medieval British King Canute.

POSSIBLY the next best thing to ordering the weather to perform on schedule is a systematic study of what to expect from it, which has become known as meteorology and weather forecasting. We were somewhat surprised to learn from HERBERT COREY's article in this



JAMES H. COLLINS

*The transportation situation is literally changing the lives and habits of America's millions.*

(SEE PAGE 795)



HERBERT COREY

*The Signal Corps is the Army's own special public utility system.*

(SEE PAGE 803)

JUNE 18, 1942

issue (beginning page 803) that governmentally organized weather forecasting and observation were not only an innovation of our own government of the United States, but more particularly an offshoot of the United States Army Signal Corps.

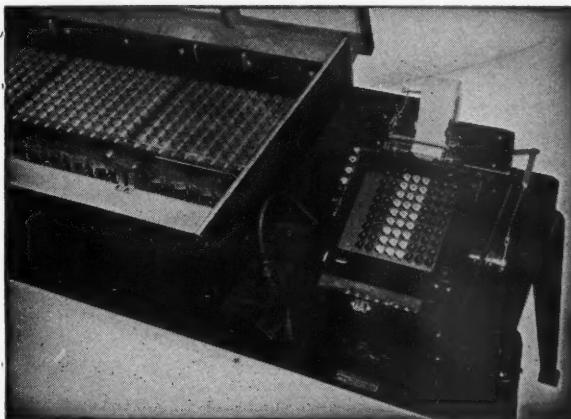
We had always thought of the Signal Corps, in a vague way, as having its historical roots in the more primitive forms of military communications, such as wigwag flags, Indian scouts, and smoke signals. But apparently the early officers of the American Signal Corps found time to probe into the mysteries of the elements. As a result we have our modern United States Weather Bureau which, despite cartoons and jokes to the contrary, our citizenry well appreciates, even though the bureau is not giving the civilian population much information for the duration.

WEATHER forecasting is just an example of the versatility of the modern Signal Corps. The invention of the telephone and telegraph, of course, automatically put the Signal Corps men into the category of high-class technicians. But the more recent inventions of radio, television, aircraft detectors, and various other electronic devices have made the

# SAVE 50%

## IN TIME AND MONEY WITH

### THE ONE-STEP METHOD



### OF BILL ANALYSIS

WHAT effect is the national defense program having on your bill distribution? Analysis of customer usage data will provide the answer to this important question. In addition to a knowledge of the existing situation, certain trends may be disclosed, a knowledge of which may be of considerable importance to you under circumstances where the picture is rapidly changing.

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### Recording & Statistical Corporation

Utilities Division

102 Maiden Lane, New York, N. Y.

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Chicago

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Montreal

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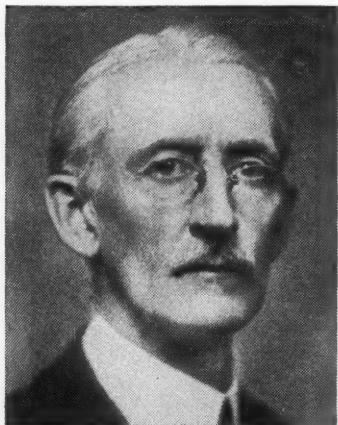
Signal Corps seem as complicated and profound to the layman as the science department of a great university. Mr. COREY gives us an outline of the various ramifications of this great "public utility of the Army."

**W**HILE it is obviously true, as stated above, that governments cannot control the weather, they seem to be having better luck with the Time. Maybe this is the result of nearly a quarter-century's American practice in monkeying with the clock by government fiat under the heading of daylight saving time.

BUT a more detailed and refined method of controlling the time-table of the American way of life has recently come into existence as the result of the transportation crisis—staggered hours. A few years ago the opening and closing hours of American commerce seemed as immutable as the laws of the Medes and Persians. Factories opened at 7; business establishments at 8; and the great army of white collar workers and school children punched the bell or answered it, as the case might be, at 9 A. M.

Now the various local transportation czars have cut the American family's time-table into little pieces as small as fifteen minutes. Even the school children have had their opening and closing hours varied so much that, in some places, one group of students freed from school for the day can be seen playing on the streets with another group having their afternoon recess.

THIS interesting experience in controlling human affairs is discussed in the opening article in this issue by JAMES H. COLLINS, well-



JAMES BLAINE WALKER

*The metropolitan utility systems must not be vulnerable to the enemy.*

(SEE PAGE 818)

JUNE 18, 1942



ALFRED M. COOPER

*A public job for security—a private job for ambition.*

(SEE PAGE 811)

known business writer and editor, now residing in Hollywood, California.

**J**AMES BLAINE WALKER, whose article on the war-time preparedness of the gas and electric utility systems in New York city begins on page 818, will probably be recalled by the majority of readers of this publication for his long and able service as secretary of the National Association of Railroad and Utilities Commissioners. He was elected to that post in 1917 and retired from it in 1934—a period which approximately paralleled his service as secretary of the New York Transit Commission. Prior to assuming regulatory duties, Mr. WALKER was an active newspaper writer and editor in Montana, Utah, and New York state. He is now engaged in private practice as a transit consultant in New York city.

**A**LFRED M. COOPER, author of the article on publicly and privately owned utility employment from the worker's viewpoint (beginning page 811), has a considerable record as an expert in industrial relations for various industries, including both publicly and privately owned utility systems. He is also author of several volumes on employee training and supervision.

THE next number of this magazine will be out July 2nd.

*The Editors*



## **YOUR TYPEWRITERS — ONE OF AMERICA'S VITAL WORK WEAPONS — MUST BE KEPT IN TOP CONDITION!**

Like your automobile and its tires, your typewriter must last for the duration. That means you must take care of it in order to keep important paper work flowing smoothly, uninterrupted, in your office as part of

the war effort. American business cannot be bottlenecked because too many machines are out-of-order from lack of care.

Without obligation,

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*Branches Everywhere*

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#### PREPRINTS FROM PUBLIC UTILITIES REPORTS

*Various regulatory rulings by courts and commissions reported in full text,  
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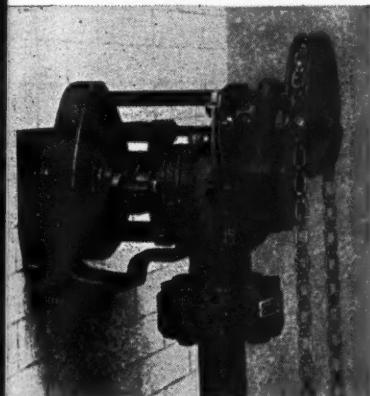
Vulcan provides clean heat transfer surfaces to the Combustion four-drum, bent-tube, 400,000 lb. per hr., pulverized coal-fired boiler which serves this new 40,000 kilowatt, 900 lb. per sq. in. Southern plant.

## VULCAN SOOT BLOWERS

Chickasaw becomes another in the long list of plants depending on VULCAN Soot Blowers to assure highest heat transfer, real steam economy and freedom from frequent servicing.

The advanced design, HyVuloy and Vulite intimate contact bearings, HyVuloy elements and VULCAN'S Model LG-I are guarantees of efficient, trouble-free operation in ANY plant.

Remember that whatever the characteristics of your boiler and setting, fuel, or load, Vulcan engineers will be glad to solve any soot blower installation and operating problem involved.



**VULCAN SOOT BLOWER CORP., DUBOIS, PA.**



## Remarkable Remarks

*"There never was in the world two opinions alike."*  
—MONTAIGNE



RAYMOND MOLEY  
*Contributing editor, Newsweek.*

ROBERT S. LYND  
*Professor of Sociology, Columbia University.*

EDITORIAL STATEMENT  
*The Wall Street Journal.*

JOSEPH B. EASTMAN  
*Director, Office of Defense Transportation.*

ERNEST E. NORRIS  
*President, Southern Railway System.*

ERLE P. HALLIBURTON  
*President, Halliburton Oil Well Cementing Company.*

WILLIAM P. WITHEROW  
*President, National Association of Manufacturers.*

EDITORIAL STATEMENT  
*Industrial News Review.*

WILLIAM S. PALEY  
*President, Columbia Broadcasting System.*

"There can be no such thing as enforced patriotism."

"... fortitude is only a negative virtue when the situation demands positive action."

"Money won't win the war. Neither can it be won without the things to fight with which money provides."

"The phrase 'on the alert' applies to transportation in war time quite as much as to situations like Pearl Harbor."

"If private enterprise continues to be a form of human activity, you can bet your bottom dollar that we'll be railroading—twenty-four hours a day, winter or summer—till the cows come home."

"Pressure groups demanding gigantic appropriations for vote-getting projects do not realize that they are sapping the very substance of lifeblood of free enterprise, and causing a dislocation of capital investment."

"Personally, I think we might just as well give our all in personal energy, plant production, and taxes now as to lose all eventually. I'd rather be without plant, private enterprise, or wealth than to take my orders from Tokyo."

"If any power shortages occur, they will be the direct result of past political activity which frightened investors and made normal electric expansion impossible. The continuation of those activities will mean more and greater power shortages in the future."

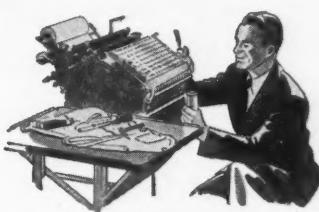
"Freedom of speech on the air has become certainly as precious as freedom of the press, and from the start we [CBS] have been resolved to fight to preserve it, because we believe that to do so is a duty to ourselves as broadcasters and, even more, a duty to the public."

# TIMELY WARTIME HELPS FOR BURROUGHS USERS



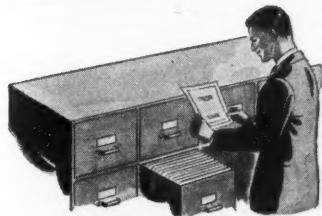
## ADVISORY SERVICE

Burroughs representatives, trained and experienced in machine systems and installations, are fully qualified to suggest time-saving short-cuts . . . to counsel with users in meeting today's accounting requirements with their present Burroughs machines.



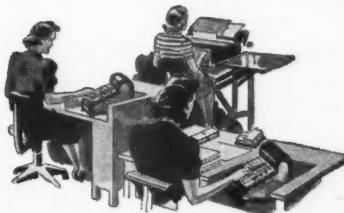
## MECHANICAL SERVICE

Burroughs' own salaried, factory-trained, factory-controlled service men inspect, lubricate and adjust Burroughs machines. They make repairs and replacements with genuine Burroughs parts. Their work is guaranteed.



## INFORMATION LIBRARIES

Every local Burroughs office is kept supplied with the latest information on how Burroughs machines are being used to meet today's increasing and changing accounting requirements. This information is always available to Burroughs users.



## OPERATOR INSTRUCTION

Burroughs renders timely and valuable assistance by showing operators how to make full use of the many time-saving features and advantages that are built into Burroughs machines.

*Thousands of Burroughs users are taking advantage of these services to prolong the life of present equipment, as well as to meet the increasing demands and changing requirements of today's accounting.*

**BURROUGHS ADDING MACHINE COMPANY, DETROIT, MICHIGAN**

## REMARKABLE REMARKS—(Continued)

W. D. GAY  
*Manager, utility department, Standard & Poor's Corporation.*

"Probably it is premature to consider what might happen to the gas industry when the war is ended, as plenty is going to happen to it during the war."

OSCAR L. YOUNG  
*Chief Justice, New Hampshire Supreme Court.*

"When the war is over I hope there will be a movement looking toward the return of those ways and things which have made America great. I am looking forward to the establishment of the line of demarcation between what we were taught were the safeguards of our rights and liberties on the one hand and a government of uncertainty on the other."

LELAND OLDS  
*Chairman, Federal Power Commission.*

"You can't fight a war without men. And men can't fight a war without kilowatt hours, billions of kilowatt hours. The men at the front are almost literally fighting the enemy with kilowatt hours—kilowatt hours embodied in planes and ships and tanks and guns and high explosives. In the long run, the nations which can muster the most kilowatt hours should win the victory."

MARTIN F. SMITH  
*U. S. Representative from Washington.*

"The basis of the power requirements for the defense program has been estimated by various agencies from 2.25 to 3.5 kilowatt hours per dollar of defense expenditure. The tentative figure of the War Production Board is now around 2.25 kilowatt hours per dollar, whereas the Federal Power Commission estimated 2.75 and the Brookings Institution 3.5 kilowatt hours. This means that one kilowatt working every hour in the year will turn out from \$2,500 to \$4,000 worth of defense metals."

EDITORIAL STATEMENT  
*Electrical World.*

"It is only human and natural that power company executives should often look upon government orders affecting electric service as just more political interference in their business. In this respect the necessity for mental conversion is a more difficult obligation on electric utility management than on almost any other business group. The utility man must not only give up many of his established habits of thinking and doing but must also overcome fears and dislikes that are only too well justified by past and present treatment."

EDITORIAL STATEMENT  
*Chicago Tribune.*

"A Congressman who votes to waste a million dollars on a nondefense project is just as guilty of sabotage as a spy who blows up a million dollars' worth of shells."

PAUL W. KESTEN  
*Vice president, Columbia Broadcasting System.*

". . . radio is the No. 1 arsenal of democracy in the Ordinance of Ideas—the supply and transportation of words and thoughts that beget human action."

*Safeguard*

*Equipment*

*Outlay*

*with*

**R&IE**

## METAL ENCLOSED BUS

R&IE bus provides individual housings for each conductor with air space between—thus preventing interphase shorts and limiting any trouble to ground faults. The air space also promotes cooling.

R&IE bus provides ample strength to resist short circuit stresses. These stresses are taken by the mounting frames in which the insulators are subjected to compression loading only.

R&IE bus covers are housings only and

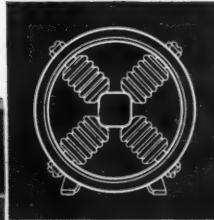
not strength members. These housings can be gasketed to keep out dirt and moisture.

R&IE bus can be mounted on floor, wall, or ceiling and is readily fitted to a structural steel mounting.

R&IE bus can be installed, aligned, adjusted and tested, and then the housings put on. Conversely the housings can be taken off for inspection by removing a minimum number of bolts.

R&IE bus can compete in price and in low cost of erection with any other type of bus structure and also give the above distinct advantages.

**RAILWAY AND INDUSTRIAL ENGINEERING CO.**  
GREENSBURG, PA. . . In Canada, Eastern Power Devices, Ltd., Toronto



# MANY LARGE COMPANIES ARE NOW AS PART OF NATION'S PROGRAM TO GET 40,000



**MAKE A MAP** like the one at left, on which to chart the routes for each residential district. Dots indicate workers' homes; circles indicate workers with cars.

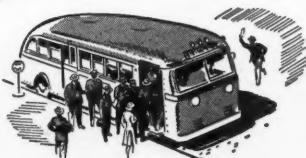
I WANT TO COOPERATE UNDER A "CAR OWNERS" PLAN TO  
HELP RELIEVE OUR WARTIME TRANSPORTATION SHORTAGE  
AND TO HELP CONSERVE OUR TIRES AND GASOLINE...

NAME	CITY	HOURS OF WORK TO	MILES TO WORK
ADDRESS	DAYS WORKED		
I DO NOT OWN A CAR	I CAN GET TO WORK USING:		
IT WILL CARRY _____ PASSENGERS	<input type="checkbox"/> MY CAR	<input type="checkbox"/> MY CAR	
THE TIRES HAVE _____ MILES LEFT	<input type="checkbox"/> ANOTHER'S CAR	<input type="checkbox"/> ANOTHER'S CAR	
WHEN I DRIVE TO WORK I PARK MY CAR AT _____	<input type="checkbox"/> BUS. NAMES AND NUMBERS	<input type="checkbox"/> BUS. NAMES AND NUMBERS	
COMMENTS:	<input type="checkbox"/> ST. CAR NAMES AND NUMBERS	<input type="checkbox"/> ST. CAR NAMES AND NUMBERS	
	<input type="checkbox"/> OTHER	<input type="checkbox"/> OTHER	

**THIS CARD** is a sample guide. Make changes to suit your needs. Reprint or copy form on filing cards for each worker to fill out and turn in to your Transportation Committee.



**Trolleys can't do it ALONE.** Even with staggered work hours to level off transportation peaks there aren't enough trolleys to take America's millions to work.



**Buses can't do it ALONE.** They're already taxed to their full seating capacity. And enough vital steel and rubber can't be spared to build enough new buses.



**Trains can't do it ALONE.** Although every railroad is cooperating 100%, many of America's mighty war production plants can't be serviced by trains or subways.

IN AMERICA'S FIGHT FOR LIFE, EVERY TIRE-  
**UNITED STATES**

1230 Sixth Avenue

MIL  
R  
Rock

# TAKEING A CENSUS OF EMPLOYEES' CARS 40,000,000 WORKERS TO THEIR JOBS ON TIME

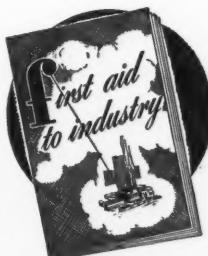
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## VOLUNTARY TRANSPORTATION COMMITTEES TO ROUTE FULL CARS TO WORK ARE SET UP BY PLANT EMPLOYEES IN EACH COMMUNITY

The problem of getting 40,000,000 workers to their jobs is being taken over by America's car owners. Neighbors are already doubling up to go shopping, to take children to school, to go to work...*but not enough of them!* Your company and your employees can cooperate by taking a census of workers' cars. Here's how you can do it in your community: (1) Fill out cards, like the one shown here, (2) Sort cards by residential districts, (3) Select sectional committees to act as traffic control groups for each district to assure equitable use of cars, (4) Route *full* cars to work on every shift. Details can be worked out quickly by you...your workers...your community. The important thing is to start today to get every last mile of use from our cars, our gas, our tires!

### HOW TO CONSERVE MECHANICAL RUBBER GOODS.

This 48-page book is for managers, engineers and plant operating men. It shows how you can conserve rubber through proper handling, installation and care of rubber conveyor, elevator and transmission belts; all types of industrial hose; packings; linings; rolls; mountings; and other mechanical rubber goods; and electrical wires, cables, and tapes. For free copies, write directly to Mechanical Goods Division, U. S. Rubber Co.



### GET FREE MILEAGE BUDGET CHARTS

and copies of this free 32-page book on tire care from your local U. S. Tire Dealer or write direct to the United States Rubber Company. Hundreds of thousands of these charts and books are already in the hands of American car owners—helping to save tires, gas and oil.



**MILE MUST BE SAVED FOR ESSENTIAL DRIVING**

**S R U B B E R C O M P A N Y**

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THERE'S PRIORITY

ON WATER METERS

*But there's no Priority*

ON WATER METER

*Accuracy*

DO YOU let your water meters die a natural death?

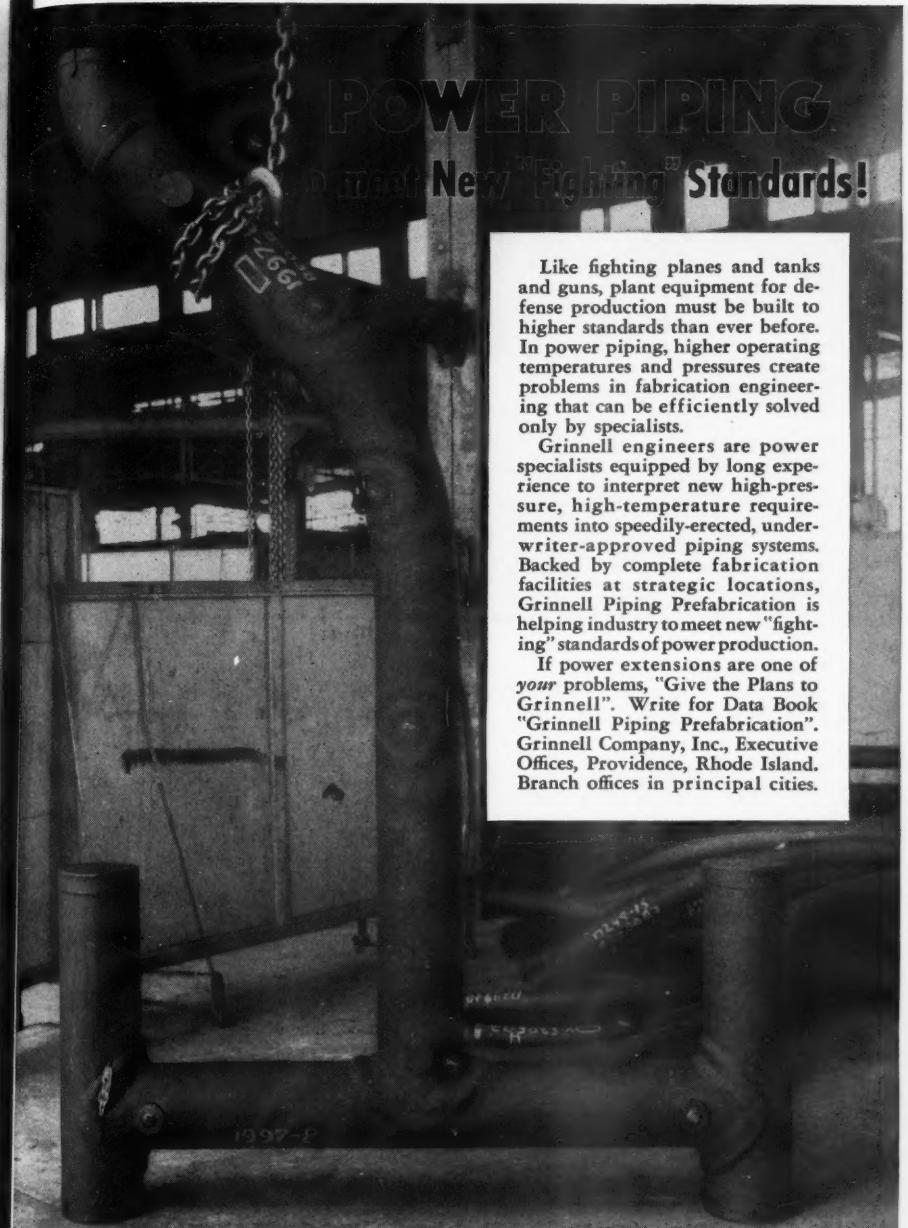
Estimates indicate that a large percentage of meters in service are never tested until they "die." Those who have revised their methods find that they had been losing as much as 30% to 40% in revenue that could have been collected. Increased accuracy has often enabled a community to get more water for the same money, or has reduced operating costs by reducing unaccounted-for water.

Why not inaugurate a modern meter testing program for your community? You'll be surprised at how quickly you will be repaid by the results obtained. Your Trident representative has had considerable experience along these lines and will be glad to cooperate with you.

NEPTUNE METER COMPANY - 50 West 50th Street - NEW YORK CITY  
Branch Offices in CHICAGO, SAN FRANCISCO, LOS ANGELES, PORTLAND, ORE., DENVER, DALLAS,  
KANSAS CITY, LOUISVILLE, ATLANTA, BOSTON.  
Neptune Meters, Ltd., Long Branch, Ontario, Canada.  
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*More Revenue thru Better Testing Meters*



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Like fighting planes and tanks and guns, plant equipment for defense production must be built to higher standards than ever before. In power piping, higher operating temperatures and pressures create problems in fabrication engineering that can be efficiently solved only by specialists.

Grinnell engineers are power specialists equipped by long experience to interpret new high-pressure, high-temperature requirements into speedily-erected, underwriter-approved piping systems. Backed by complete fabrication facilities at strategic locations, Grinnell Piping Prefabrication is helping industry to meet new "fighting" standards of power production.

If power extensions are one of your problems, "Give the Plans to Grinnell". Write for Data Book "Grinnell Piping Prefabrication". Grinnell Company, Inc., Executive Offices, Providence, Rhode Island. Branch offices in principal cities.

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RUNNERS  
BUTTERFLY VALVES  
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ELECTRICALLY WELDED RACKS

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Newport News, Virginia

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June 18, 19

### MERCOID SENSATHERM

Sensitive low voltage thermostat widely noted  
for room temperature control.



### MERCOID NO. 855 THERMOSTAT

Operates directly on line voltage. Universally accepted by trade for its dependable performance.



### EXPLOSION-PROOF CASES

Available with any type of temperature or pressure switch. Recommended for all hazardous locations.



### REMOTE BULB TEMPERATURE CONTROL

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### LIQUID LEVEL CONTROL

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War production calls for maximum efficiency as well as protection of life and equipment in plant operation—increasing enormously the requirements for automatic controlling instruments.

Mercoid Controls have figured prominently in the expansion of the Nation's war industry. Engineering acceptance throughout all branches of industry made this inevitable.

Mercoid Controls have not fallen short of the reputation they have established over the many years of their existence. Their reliability is taken for granted—but there are reasons back of it—one in particular that good engineering does not overlook:

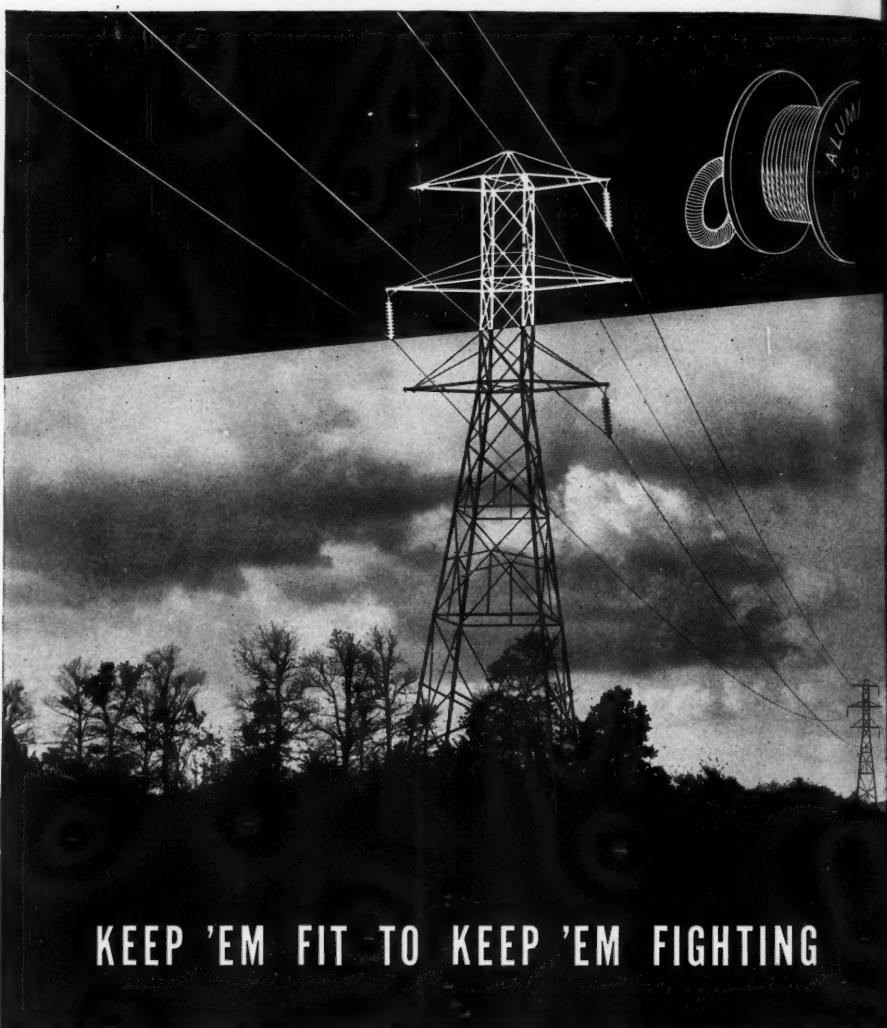
*The vital part of an automatic control and usually the most vulnerable is the switch element itself.*

Coupled with proven principles of design and construction, all Mercoid Controls are equipped with hermetically sealed Mercoid type mercury switches. These switches are immune to corrosion and eliminate open arcing, pitting or contact welding. Experience shows them to operate indefinitely without deterioration.

Mercoid products fit into wartime requirements for temperature and pressure regulation, liquid level maintenance, switch contacts, circuit relaying, protection against ignition, flame, and power failures and low voltage. The majority of Mercoid Controls are also available with explosion-proof cases for hazardous locations.

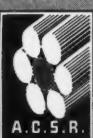
A fully descriptive catalog for your supply source library may be had on request. Mercoid engineers will advise with you on control problems.

The Mercoid Corporation • 4213 Belmont Avenue • Chicago, Illinois



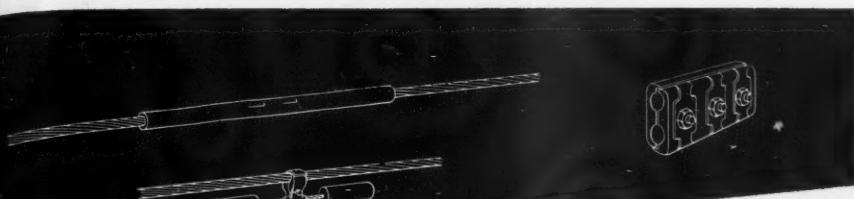
**KEEP 'EM FIT TO KEEP 'EM FIGHTING**

*A. C. S. R. lines all over the country carry power to fighters on the home front.*



**A·C·S·R**

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**P**ROPER MAINTENANCE helps assure an uninterrupted flow of power to war industries. Hi-line or rural line, it must be kept in service to help fighters on the home front get supplies to our boys at the battle front. Your lines certainly earn the attention that's needed to keep them on the job.

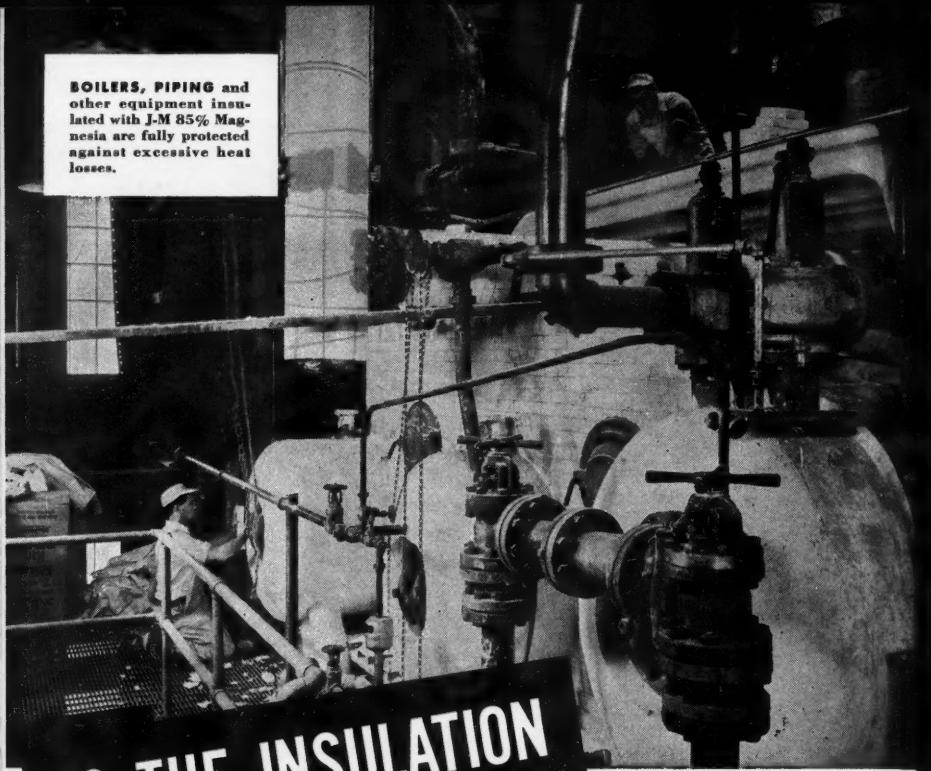
The Government has recognized this need and permits the purchase of maintenance materials for power lines under ruling P-46.

You're not seeing much of the Alcoa men today who used to spread the gospel of Aluminum Cable Steel Reinforced; they're assisting in the production of vital Aluminum Alloy war materials. But this doesn't mean we've forgotten you. If you're needing advice, Alcoa engineers are ready to serve you. Write ALUMINUM COMPANY OF AMERICA, 2134 Gulf Building, Pittsburgh, Pennsylvania.

## *Aluminum Cable Steel Reinforced*

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**BOILERS, PIPING** and other equipment insulated with J-M 85% Magnesia are fully protected against excessive heat losses.



# IS THE INSULATION IN YOUR PLANT ONLY HALF RIGHT?

**A**LMOST any insulation will save you some money on fuel. But to get fuel costs down to rock bottom . . . and to keep them there . . . it takes the *one correct insulating material*, applied in the *one most economical thickness*.

To assure every saving possible with insulation, leading power plants rely on the

J-M Insulation-Engineering Service. J-M Engineers offer you specialized experience and training that enable them to trace down costly heat losses that might otherwise go unnoticed. From the complete line of J-M Insulations, they can recommend the exact amount of the right material that assures maximum returns on your insulating investment.

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FOR EVERY TEMPERATURE...FOR EVERY SERVICE...

Superex . . . 85% Magnesia . . . JM-20 Brick . . . Sil-O-Cel C-22 Brick . . . Sil-O-Cel Natural Brick . . .  
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**It's a BIG ORDER, but  
CRESCENT  
WIRE & CABLE  
is helping meet the need**



Miles of copper wire and cable go into the manufacture of America's great bombers, tanks and ships. More miles go into the huge new plants that are building these weapons for the great allied offensive to come. CRESCENT, as in the last war, is playing an increasing part in the effort to meet the demand for

**ELECTRICAL WIRES AND CABLES**  
**WAR PRODUCTION 100%**

**CRESCENT INSULATED WIRE & CABLE CO.**  
TRENTON, N. J.

# MISSIONARIES OF "MEASURED HEAT"



Many valuable facts are being offered these days on the vitamin content of foods. But have you noticed how little the public is told about how to cook these foods so that these vitamins may be preserved?

Robertshaw has seized this golden opportunity to perform a much-needed public service—and also promote the modernity of gas cooking so that there will be a market for better gas cooking equipment when peace is here again.

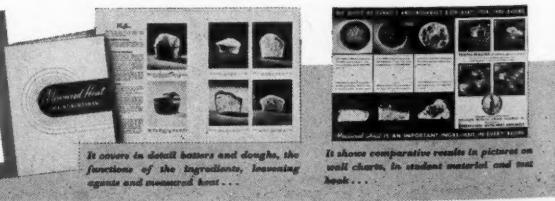
Through its Educational Program, Robertshaw is teaching the gospel of "Measured Heat" and the part heat plays in proper cooking. The Robertshaw "Measured Heat" Program is used by Home Economics teachers in grade and high schools. It is also widely used by County Home Demonstration Agents, Home Economics supervisors, and at Universities where home economics teachers study. These are the people in whose hands the future of gas cooking lies.



## ROBERTSHAW THERMOSTAT COMPANY

YOUNGWOOD, PA.

**THE ROBERTSHAW  
MEASURED HEAT PROGRAM**  
explains the importance  
of optimum temperature  
in baking and roasting—



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*Announcing...*

THE Empire

# VICTORY Meter

A FULLY PROTECTED  
IRON CASE WATER METER  
with V-Glass Register Box



As the meter reader sees it—the V-Glass Register Box provides clear vision for quick, accurate meter reading and tightly seals the register mechanism against dust and moisture.

THE Empire Victory Meter is a fully protected iron case meter having a molded glass register cover. About 70% of the bronze normally used in a meter of this size has been eliminated without sacrificing any of the quality construction details that have, for 72 years, been associated with the Empire name. The time tested oscillating piston principle of measurement, using the famous Empire Balanced Piston, provides unexcelled accuracy. Smooth flow lines and interior contours, in combination with a

measuring chamber having dual inlet and outlet ports, keeps pressure absorption at the absolute minimum. The design incorporates many innovations in construction that reduce friction and wear, assuring retention of the high initial accuracy of the meter over a long period of time. The Empire Victory is a meter that will give thoroughly dependable, unfailingly accurate service both for the duration and for many years to come. Descriptive literature will be sent upon request.



## PITTSBURGH - NATIONAL METERS

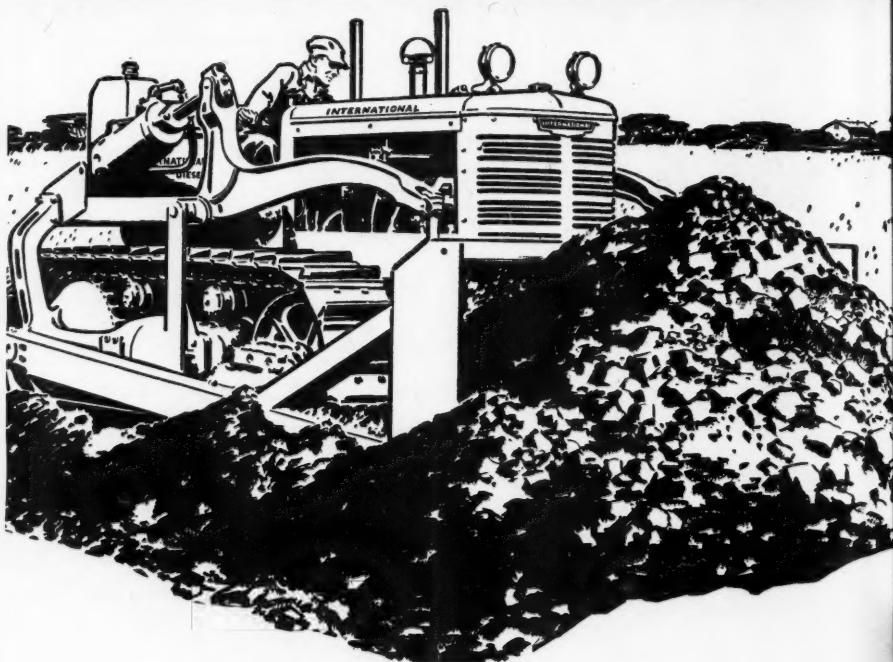
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PITTSBURGH EQUITABLE METER COMPANY

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BOSTON DENVER CHICAGO Main Offices, Pittsburgh, Pa.  
MEMPHIS BOSTON NATIONAL METER DIVISION, Brooklyn, N.Y.

KANSAS CITY SEATTLE  
COLUMBUS LOS ANGELES  
SAN FRANCISCO COLUMBIA  
BUFFALO

# "KNOW-HOW" that's the secret!



WHEN WE talk about International Industrial Power dealer "know-how," we mean the dealer's broad knowledge of construction methods and equipment and his application of that knowledge to your particular problems.

"Know-how" means recommending the right sizes and types of tractors and engines for your specific jobs. It means a knowledge of allied equipment and how to coordinate that equipment most efficiently with International TracTracTors, Wheel Tractors, and Power Units.

The dealer's "know-how" has its foundation in International Harvester research, engineering, and manufacturing — a founda-

tion on which he has built, with his own experience, a background of practical power information. He can give you sound, money-saving ideas on the best equipment to use, the best way to cut operating costs, the best way to get jobs done, *the best way to get maximum output from your equipment* in these times when every minute and every machine counts.

Add his knowledge and experience to your own. Then you will have a combination that will help you get the most out of your equipment . . . and help WIN THE WAR!

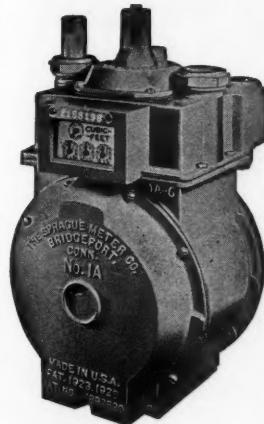


**INTERNATIONAL HARVESTER COMPANY**  
180 North Michigan Avenue Chicago, Illinois

# INTERNATIONAL HARVESTER

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GAS MEASUREMENT AND  
CONTROL.

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Natural and Butane Service

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THE SPRAGUE METER CO.  
Bridgeport, Conn.

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Service!*



• Whatever the demands of the gas industry may be, Connelly is equipped to meet them. With our new laboratory for scientific testing of purification materials and greatly increased facilities for the production of Iron Sponge, Governors, Regulators, Back Pressure Valves and other equipment for gas purification and control, Connelly is at your service, ready for any emergency.

Under the able management of Mr. A. L. Smyly, pioneer in gas purification and pressure regulation, this organization has continued its leadership in the field, and the fact that Connelly products are standard in hundreds of the leading gas plants of the country is indicative of the service rendered.

• Mr. A. L. Smyly  
President  
Connelly Iron  
Sponge &  
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**Connelly**

IRON SPONGE and GOVERNOR Company  
CHICAGO, ILL.

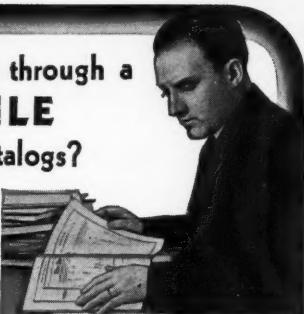
ELIZABETH, N.J.



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**Why dig through a  
PILE  
of Catalogs?**

Find the  
Fitting  
you need,  
quickly—



in the **COMPLETE** line

If you have a Penn-Union Catalog, you can instantly find practically every good type of conductor fitting. These few can only suggest the variety:



Universal Clamps to take a large range of conductor sizes; with 1, 2, 3, + or more bolts.

L-M Elbows, with compression units giving a dependable grip on both conductors. Also Straight Connectors and Tees with same contact units.



Bus Bar Clamps for installation without drilling bus. Single and multiple. Also bus supports—various types.

Clamp Type Straight Connectors and Reducers, Elbows, Tees, Terminals, Stud Connectors, etc.



Jack-Knife connectors for simple and easy disconnection of motor leads, etc. Spring action—self locking.



Vi-Tite Terminals for quick installation and easy taping. Also sleeve type terminals, screw type, shrink fit, etc. etc.



Splicing Sleeves, Figure 8 and Oval, seamless tubing—also split tinmed sleeves. High conductivity copper; close dimensions.

**Preferred by the largest utilities and electrical manufacturers—because they have found that "Penn-Union" on a fitting is their best guarantee of Dependability.** Write for Catalog.

**PENN-UNION ELECTRIC CORPORATION**  
**ERIE, PA.** Sold by Leading Jobbers

**PENN-UNION**  
CONDUCTOR FITTINGS

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1846 1923

**JOHN DAVEY**  
*Founder of Tree Surgery*

**Evaluating Tree Trimming**

The measuring stick on tree trimming is the all-around satisfactory service you get for the dollars you spend—the total cost against the total results. On that basis Davey service is tops.

*Always use dependable Davey Service*

DAVEY TREE EXPERT CO.

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**DAVEY TREE SERVICE**

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**trained and equipped to help in this emergency**

**F**IRST to be enrolled in the Nation's service, utilities are taking on bigger and bigger tasks that are vital to our national effort . . . Fact-finding jobs inevitably grow out of emergencies. These peak analytical jobs need not be assigned to staffs already heavily burdened with regular work . . . IBM Service Bureaus in all principal cities are trained and equipped to help utilities with overflow accounting, research and fact-finding work . . .

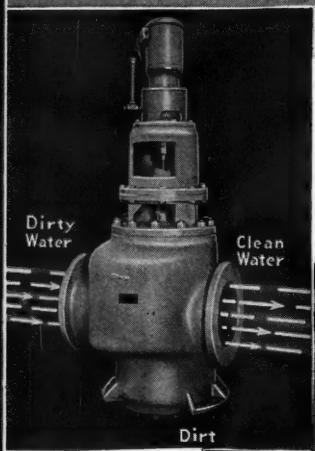
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## INTERNATIONAL BUSINESS MACHINES CORPORATION

Offices in  Principal Cities

# Continuous water straining and no cleaning problem!



How the Elliott self-cleaning strainer is installed. Water goes through, foreign matter ejected downwards.

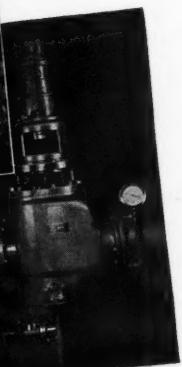


Elliott 14" self-cleaning strainer, one of five in a standard hydro plant. They protect fine expensive machinery, transformer cooling and generator cooling coils.

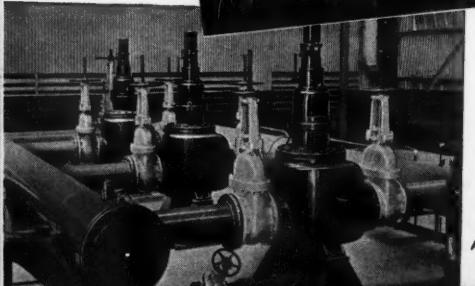


Right. In a steel mill, 12" Elliott self-cleaning strainer serves in mill service water line.

Above. One of three Elliott 10" self-cleaning strainers in bearing cooling water service in a central station.



Three Elliott 14" self-cleaning strainers in a steel mill serve in roll cooling water system.



## ELLIOTT Self-cleaning STRAINERS



To remove abrasive and other foreign material from water, preventing damage to pumps and other equipment, becomes in effect a duty. To do this with little or no dependence upon man-power is almost equally essential.

The Elliott self-cleaning strainer meets both of these requirements. It will continuously move a relatively large amount of fine dirt without supervision or attention. A gear motor slowly rotates a sealing box which covers in turn each section of the straining element, allowing back-flowing water to flush out the dirt. Then the cleared straining section again takes up its function. Relatively simple, and thoroughly successful, as in the various installations illustrated here.

Where manual cleaning is permissible, Elliott Twin Strainers will provide continuous service. Equipped with twin cylinders, one which handles the load while the other is being opened and its strainer basket dumped. Thousands of these non-stop units are in use in central stations and industrial plants.

If straining is a question with you, let us answer it. Bulletin on request.

## ELLIOTT COMPANY

Accessories Dept., JEANNETTE, PA.  
DISTRICT OFFICES IN PRINCIPAL CITIES



# Utilities Almanack

JUNE

18	T <sup>h</sup>	¶ California Independent Telephone Association starts session, Santa Monica, Cal., 1942.
19	F	¶ American Society of Civil Engineers will hold meeting, St. Paul, Minn., July 22, 23, 1942.
20	S <sup>a</sup>	¶ League of Iowa Municipalities will convene, Des Moines, Iowa, Aug. 17-19, 1942.
21	S	¶ American Water Works Association starts Conference on War-time Water-works Problems, Chicago, Ill., 1942. (2)
22	M	¶ American Institute of Electrical Engineers opens convention, Chicago, Ill., 1942. ¶ American Society for Testing Materials meets, Atlantic City, N. J., 1942.
23	T <sup>u</sup>	¶ National Association of Power Engineers, Inc., will hold meeting, New Orleans, La., Aug. 23-26, 1942.
24	W	¶ Governmental Research Association will hold meeting, Princeton, N. J., Sept. 7-9, 1942.
25	T <sup>h</sup>	¶ Mid-West Gas Association will hold annual gas school and conference, Ames, Iowa, Sept. 8-10, 1942.
26	F	¶ American Water Works Association, Michigan Section, will hold meeting, Traverse City, Mich., Sept. 9-11, 1942.
27	S <sup>a</sup>	¶ American Transit Association will hold annual business meeting, Chicago, Ill., Sept. 9-11, 1942.
28	S	¶ Idaho Municipal Officers' Association opens meeting, Sun Valley, Ida., 1942. (2)
29	M	¶ Pennsylvania Business Association opens meeting, Bedford, Pa., 1942. ¶ Society for Promotion of Engineering Education convenes, New York, N. Y., 1942.
30	T <sup>u</sup>	¶ Kentucky Independent Telephone Association will hold meeting, Ashland, Ky., Sept. 15, 16, 1942.

JULY

1	W	¶ Pacific Coast Gas Association will hold meeting, San Francisco, Cal., Sept. 28, 1942.
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Courtesy, Westinghouse Electric & Manufacturing Co.

### The New 60,000-kilovolt Ampere Generator

*Because of this husky machine better electrical apparatus is built. With its older companion of the same size, power is supplied for testing circuit-breakers and kindred apparatus in the recently enlarged high-power laboratory at East Pittsburgh.*

# Public Utilities

*FORTNIGHTLY*

VOL. XXIX; No. 13



JUNE 18, 1942

## Staggering to Work

It took a war to spread Los Angeles' street-car peak load from one hour to two and a quarter, because the basic problem was changing human habits. But the stagger-hour system proved immediately popular. And here is a brand-new factor in figuring street utility problems to make money—maybe even pay dividends!

By JAMES H. COLLINS

**B**ACK in the Booming Twenties, after Los Angeles had experienced the biggest building year in its history, the city fathers brought in some experts to study the street railway problem, and make recommendations for a really metropolitan rapid transit system.

The county supervisors joined in, the engineers were paid jointly, and a comprehensive report was made in a 200-page book, with detailed maps, showing just what could be done, and what would be the estimated costs.

Subways, tunnels, new equipment were needed to speed up travel and carry more people.

Taken sectionally, the plans called for between \$100,000,000 and \$175,000,000. There didn't happen to be that much new investment capital available, either in public funds or the bond market, even in the Coolidge era.

So, Los Angeles put the report on the bookshelf, and ever since has worried along with such new equipment as the street railway companies could buy during the toughest years in their his-

## PUBLIC UTILITIES FORTNIGHTLY

tory, along with a lot of the equipment they had then. There have always been more passengers to haul, and at the same time the private automobile has been in keen competition. Various experiments in raising fares have had only the usual results, cutting down of traffic. Dividends are now a memory going back to some vague golden age of America.

In the Tough Thirties, other studies were made to solve the transit problem along different lines—through motor speedways into the city from various outlying regions, and an elevated loop downtown, over which private cars could travel fast, and motor-buses handle utility traffic by coming down to street level at stations, letting out and taking in passengers, and climbing up again.

This plan would be financed by the city and county, and there was some consideration given to tolls, to help pay operating expenses.

**J**UST as the country went into its defense program, rival speedway routes were vigorously presenting their arguments for being first to get construction going; and then came war, and no more steel, no more labor, no more money—and on top of that the tremendous influx of new workers going back and forth, three shifts a day, to the scattered war factories.

Now, while all this was going on, a city official had been studying the transit problem in his own way, conducting largely a one-way investigation, though Ralph T. Dorsey, city traffic engineer, had assistance in his organization, and gathered information for other purposes, such as automobile accident prevention, which

proved to have direct bearing on street-car problems.

Dorsey made a one-man survey, found a one-man solution, and for a dozen years and more was a one-man prophet, crying in the wilderness, a fellow with a sound idea of what could be done, and first to show you why it could probably never be done.

For fourteen years he had expounded it to anybody interested enough to listen. That might be a service club lunch, a meeting of transit men, a gathering of parent-teachers, or the mayor, or county supervisors. He could prove that it was a solution requiring no new investment, one that would give every car rider at least a strap, and often a seat; one that might even enable the street-car companies to make some money and, maybe in some distant day, even pay dividends.

The majority of Dorsey's listeners agreed with him, and sighed when he went on to show why it was impossible.

"It means changing human habits," he admitted. "You and I go to work at the same hour every morning, over the same route, and come back at the same hour every afternoon. So does everybody else; all the office hours, store sales, and factory whistles are geared to schedules, rooted in our habits. This system demands a complete change of schedules all around. If anybody can tell me how to effect such a revolution, I'd like to hear about it. I don't know how to do it."

**W**ELL, Dorsey forgot the war lords of Japan. His simple plan took into account the fact that all these people hurrying to work used street railway facilities only one hour in the morning, and an hour at night.

## STAGGERING TO WORK

The transit companies were struggling under the burden of all the equipment needed to move their peak loads two hours every week day. It took all the old equipment they could keep going, and all the hard-won dollars left over after expenses.

If they could spread their peak loads to two hours, the same equipment would handle the traffic at lower overhead costs, there would be more comfort for passengers, they might hope to attract new traffic from people who drove to work in private automobiles, and they could earn some profit with which to buy better equipment.

A neat trick!

Pearl Harbor showed how it could be done.

On April 20th, the new Los Angeles "staggered work hours" plan went into operation, is working better than was anticipated, and promises a solution for street railway problems everywhere—and they are everywhere!

With Japan's attack, Mr. Dorsey realized that the people who were asking "What can I do?" would be eager to coöperate in such a change.

**T**HE cutting off of rubber supplies had set everybody thinking about different methods of transportation "in case."

Public opinion was now aroused so

that new laws governing traffic hours might have been passed, or even an edict from Washington uttered, but Dorsey decided that the public would like this improvement better if it first understood it, and then accepted an invitation to adopt it, work, and live by it.

So, instead of seeking new local ordinances, "on and after said date it shall be unlawful," and so forth, he drew up schedules for a spread of street-car travel based on information obtained from organizations of businessmen, the store proprietors, property owners, office managers of concerns in downtown buildings, factory owners, labor leaders, war supervisory bureaus, and the like. While he was getting information, he won their support for his plan.

First, the downtown area was defined and divided by streets, and according to the types of business prevailing, such as office, loft, retail stores, government departments, and so on.

Then, recommended hours for each kind of business were set and widely published through the newspapers and by bulletins, employers being invited to change working hours to enable employees to benefit by the plan.

Announcements were made through the city and county defense councils, the logical authorities to impose any "official" plan, but the voluntary char-



**G**"Los ANGELES war factories are generally located outside the downtown area affected by the stagger plan, many in suburban districts 10 to 15 miles from the city hall, and thus far little of their traffic has come onto the street-car system, workers generally traveling in their own automobiles, sometimes 20 to 50 miles from home. The rubber crisis has led to considerable doubling up of men in cars where formerly each workman drove alone . . ."

## PUBLIC UTILITIES FORTNIGHTLY

acter of the plan was strongly stressed. Tillie the Toiler was not ordered to do anything at all, but simply told that if she wanted to start to work fifteen minutes earlier, she would eventually find easier going, and maybe faster traveling—who knows, even find a seat!

**T**HE most critical peak under the old schedules, dictated by habit, came in the evening, when people were all going home from work at the same time, between 5 and 6 P.M., with traffic at the worst around 5:40.

To spread this load, office and light industrial employees in downtown loft buildings were advised to quit at 4:30, 4:45, or 5 P.M., government employees at 4 to 4:15, and retail store employees at 6 P.M.

The morning peak is not so acute, but it is bad enough, and these different groups were advised to start work from fifteen minutes to a half hour earlier, and be on their jobs that much sooner, each plotting his or her own time for breakfast and boarding car or motorbus.

Under the old schedules, about 160,000 persons moved out of the downtown area in one evening hour, while the new schedules called for a spread to two hours and fifteen minutes. Out of this throng, some 40,000 were retail store people, who under the new schedules were asked to work a little later, and get home for dinner later.

From the first day, there was willing coöperation by employees and employers, eager to do whatever might be necessary to win the war—and also keen about checking up results for themselves.

And, on the whole, there was satisfaction. Tillie the Toiler had to get up

earlier, but was often rewarded by finding a seat, even the first day.

**A** 3-DAY check-up showed unanimous approval of the plan by the public, with reports of more comfortable travel, and even some time saving on cars and busses, and from there Dorsey was able to go on with further improvements, to be effected through changes in habit.

First, car and bus speeds are retarded in Los Angeles, as elsewhere, by too frequent stops. The logical thing to do next was to eliminate unnecessary stops. The ideal system is four stops to the mile, and this is being achieved as fast as possible. Passengers willingly change their hours for boarding vehicles, but to discover at the same time that they are expected to board at a new point, a couple of blocks further from home, makes the immediate change greater than they had expected. After they have sampled the new plan, and got a profit in time saved, or a seat, then they are willing to coöperate in fewer stops.

Another method of speeding utility travel is to change the tempo of stop-and-go signals, or eliminate some signals during rush hours, to give a faster flow of street cars and busses along with automobiles.

A third improvement designed to relieve congestion is to use school busses for war factory workers during the hours when they are not carrying the children. Industrial plants and schools are now studying each other's schedules, to bring about such doubling up, which will become more and more necessary as war workers' tires wear out. Already, the Los Angeles transit companies are leasing motorbuses to

## STAGGERING TO WORK

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### Traffic Speed in Los Angeles

**T**HE average speed of Los Angeles street cars and busses is 11 miles per hour. Stops average much more than four to the mile, because people have been accustomed to getting on every few blocks. Frequent stops have often been demanded by petition, a small group of neighbors getting together to secure a favored stop. Once the public has been sold on the advantages of quarter-mile stops, it will experience the savings and coöperate because they are definite and measurable."

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factory workers for transportation at "off" hours, and sight-seeing busses will be used for such service as the tire situation becomes more acute.

Los Angeles war factories are generally located outside the downtown area affected by the stagger plan, many in suburban districts 10 to 15 miles from the city hall, and thus far little of their traffic has come onto the street-car system, workers generally traveling in their own automobiles, sometimes 20 to 50 miles from home. The rubber crisis has led to considerable doubling up of men in cars where formerly each workman drove alone, and further tightening of the tire situation will call for special motor-bus facilities, and perhaps the use of street railway and railroad service. This is not part of the stagger-hour plan which is designed principally to relieve downtown travel, to and from work, and also for shopping.

Stagger hours relieve congestion and promise a profit, where cars can haul two loads instead of one on the peak, go back to the other end, after carrying their customary one load morning and night, and pick up another.

For that, the distances are naturally limited to not more than 10 miles.

And the second load of passengers must be there. That is the essence of the stagger plan. It changes human nature. No utility company could ever do it, no municipality, not even the Great White Father at Washington. It takes a war, and then the passengers do it themselves, and like it!

In Los Angeles, everybody likes it, and foremost in praise and credit to Dorsey are the two street railway companies.

PACIFIC Electric is strong in inter-urban traffic, where the stagger plan does not function, but its local routes show improvements, and future

## PUBLIC UTILITIES FORTNIGHTLY

benefits are anticipated. This company, as well as Los Angeles Railway, is now in the turmoil of changing schedules and working out innumerable details necessitated by the plan.

Los Angeles Railway has about 85 per cent of the local traffic on which two trips can be made instead of one. It runs, generally, to the south and east of the downtown district, serving the industrial eastside, where Pacific Electric runs to the west and northwest, serving Hollywood and similar higher-income neighborhoods. PE might be said to have the carriage trade, and LA the baby carriage trade.

LA has about \$7,000,000 invested in cars and motorbuses, with a lot of equipment of vintage years, has had a struggle to keep enough equipment of any kind in service for a steadily mounting load, and then had a war load dumped on its baffling finances.

Under the old schedules, LA's equipment averaged fourteen hours' service per week. Under the stagger plan, it is around twenty-five hours a week. To executives who have pondered all the factors of fares, gross income, operating expenses, taxes, money for new equipment, wage increases, that is a new factor of magical possibilities. Out of the blue comes something that nobody ever thought of asking for, because it was like asking for the moon—passengers spreading themselves out so that the peak load could be hauled with half the equipment.

That means money to buy new equipment when it is available again, and such equipment as will enable transit companies to offer the schedules and the comfort that will win back some of the traffic that has gone to private automobiles.

JUNE 18, 1942

Los Angeles uses automobiles to a greater extent than any other American city, for it has 3,342 people per square mile, compared with Chicago's 15,947, and New York's 23,297.

But undoubtedly many Los Angeles people who have driven to work are good prospects for utility transportation, because they fully appreciate their higher costs, and know that the daily drive takes time and energy.

Ralph Dorsey believes that this change is going to be permanent—that the public, once accustomed to the improvements made possible by a simple change of its work hours, seldom amounting to more than half an hour, will never want to go back to the old rush hours.

With further coöperation by passengers in reducing the number of stops per mile, they can save some of that half hour in a quicker trip.

The average speed of Los Angeles street cars and busses is 11 miles per hour. Stops average much more than four to the mile, because people have been accustomed to getting on every few blocks. Frequent stops have often been demanded by petition, a small group of neighbors getting together to secure a favored stop.

Once the public has been sold on the advantages of quarter-mile stops, it will experience the savings and coöperation because they are definite and measurable.

Dorsey's ideal is based on traffic signals which operate to the best advantage when placed at quarter-mile intervals. If street-car stops can be similarly spaced, and present car stops in between eliminated, car speed can be increased to  $12\frac{1}{2}$  miles per hour, a gain of 18 per cent in running time,

## STAGGERING TO WORK

and a saving of about 75 vehicles in the equipment now used to haul the peak load.

**O**N a 40-minute ride, that amounts to nearly eight minutes, say one and a half hours weekly on the morning and night trips. Service can be extended an average of one mile over present radii, elimination of stops will save equipment and power, elimination of safety zones will give more street area for automobiles, and increased safety to passengers by placing car stops at traffic signals.

Dorsey anticipates definite savings to taxpayers from a permanent stagger-hour utility system, because cities are struggling with highway construction problems practically identical with utility executives' equipment problems.

When car- and bus-riding employees adjust their trips to stagger hours, there is a corresponding adjustment in private automobile schedules. The employer adjusts his hours for opening and closing and, with his department heads, leaves in his automobile for the office and his home at different hours.

This spreads the automobile peak load on highways, so that they are used two hours instead of one. Obviously, highways can be constructed accordingly, and costly expansions postponed, if not avoided.

While Los Angeles utility officials

have been wondering where the investment capital was coming from to buy a million dollars' worth of additional equipment to handle the peak load in one hour, the city has been spending that much on highways at bottleneck points to accommodate an hour's automobile traffic.

**I**F the motor traffic is spread half as thick, as the street car and bus traffic, then the taxpayer, too, should save money.

Maybe it takes a war, but this staggered-hour system seems to be the cure for just part of a lopsided economy that we have allowed to develop in our soft years. If we go back to various old conditions, after learning better, then we are indeed dumb as a nation, and might as well invite the most aggressive dictator to step in and run our affairs. Just as we insist upon building enough street cars, motorbuses, and highways to get us all to work in one hour, when we can do it with half the investment in two hours, and make money, so we have insisted on too many service stations, too many retail establishments, etc.

In America, too much has been the rule, and it has never been enough.

War promises to show us how to make enough suffice, and make money.

On that basis, and in these times, the stagger-hour factor is important in re-



**Q**"MAYBE it takes a war, but this staggered-hour system seems to be the cure for just part of a lopsided economy that we have allowed to develop in our soft years. If we go back to various old conditions, after learning better, then we are indeed dumb as a nation, and might as well invite the most aggressive dictator to step in and run our affairs."

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figuring utility problems all over America—remembering that even war must end sometime.

A survey of results one month after the stagger plan was put into operation showed a 70 per cent decrease in deaths due to auto collisions, 53 per cent decrease in all types of traffic deaths; number of deaths was the lowest since 1925; Mr. Dorsey regarded staggered hours as a contributing factor.

Also, there was a marked reduction in the number of vehicles needed to carry

peak traffic, with release of 30 motor-buses to carry war factory workers outside the heavy traffic areas. War factories are considering changes in shift hours, to best utilize this released equipment, as private automobiles are laid up for lack of tires.

Similar measures, such as those contained in the so-called Pontiac plan, sponsored by the Michigan Highway Commission, have been adopted in other communities; and the Office of Defense Transportation has made general recommendations looking in the same direction.



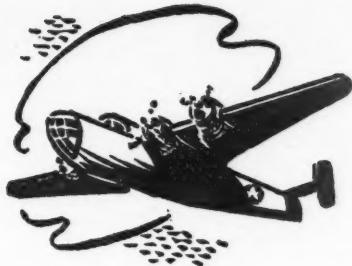
Post-war Depression

**D**OES it ever occur to our dreamy-eyed planners of post-war America that the devices they urge to prevent large-scale unemployment are just the thing to PUT AND KEEP millions of men out of work? Apparently not. They go on hatching schemes for huge expenditure of public funds, the piling up of still more state and national debt upon the mountain of indebtedness that the war will have raised and the multiplication of government activities that cannot fail to displace private enterprise....

"When the war ends there will be unsatisfied demands for the goods of ordinary living big enough to put all our returning soldiers and sailors and all the mechanics released from arms factories to work, if we only give private industry a real chance to employ them. But that real chance cannot exist if Federal and state governments plan and threaten to usurp the job, and to compel what is left of private industry to pay the cost of amateurish political management of a thousand projects that either invade the field of enterprise or rest the weight of their maintenance upon it.

"We can have EITHER a form of socialism OR the American system of free enterprise under law. There is no such thing as 'combining the best features of both,' as we learned during the late depression."

—EDITORIAL STATEMENT,  
*The Wall Street Journal.*



# Calling All Planes, Tanks, etc.

Vital importance to the Army of signals and methods of communication of information in modern warfare

By HERBERT COREY

We will begin with a brief exercise in simple fractions. It may aid in making clear the appalling immensity of our military effort. Most of us have been punch-drunk under this rain of billions. An astronomer knows all there is to be known of Betelgeuse — distance, weight, candle power, relation to the rest of the firmament—but to the rest of us Betelgeuse is just a twinkling point of light among other uncountable twinkling points. But if we do not comprehend billions we do understand small change.

We are all familiar with \$10 bills. A dollar is 10 per cent of \$10. A dime is one per cent. A cent is one-tenth of one per cent of \$10. Now we are getting to the arithmetical lesson of the day. A cent bears the same relation to \$10 that \$300,000 bears to the planned cost of the procurement program of the Army's Signal Corps.

Under present appropriations three billion dollars may be spent for the communication devices that the Army must have.

Perhaps that is not as clear as it might be. The radio manufacturing industry has in recent peace time been operating at a \$200,000,000 annual rate. That estimate may be a little high but it comes on good authority and we'll let it stand. At any rate the "World Almanac" states that 12,400,000 receiving sets were sold in 1941 at a cost to the buyers of \$434,000,000 at retail, which seems to sustain the \$200,000,000 figure of the industry's annual manufacturing turnover. The three billion dollars to be spent for communications for the new Army is fifteen times as much as the entire radio industry sold its product for in 1941. The magazine *Radio Today* estimates that the total bill for radio in the United States in 1941—sales of time,

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cost of talent, electricity, battery radio sets, replacements, tubes, servicing, supplies, everything—came to the excellent total of \$1,044,000,000. That is approximately one-third of the procurement program for the Signal Corps in the new Army. No one knows how big the Army will ultimately be because no one knows how long the war will last or where American soldiers will be called on to fight. Therefore no one knows what the cost of communications will be before victory is won. One thing is definite.

No matter what it costs, the Army must have communications and plenty of them and the best there are to be had. The Signal Corps is the eyes and ears of the Army. Subtract the Signal Corps from any operation in the field and the Army would be a blind giant, confused and helpless. Its tanks would wallow into traps; its infantry charge valiantly into ambushes; its artillery would fire on targets that did not exist; and the observers in the planes overhead could only swear in futile anger at the tragic mess below. Cut the communications of an army and at any moment that army may become a mob. Leadership becomes impractical when the leaders do not know in which way to lead.

The French army was crushed not so much by German might as by the almost total failure of communications. The old - fashioned, slow - moving, wagon-hauling armies could get along fairly well with couriers and despatch riders. There were no braver men in the AEF than those who kept tying wire-ends together under shell fire and so enabling the listening posts in No Man's Land to tell H.Q. what was go-

ing on. There are still despatch riders and linemen but the blitzing pace of today sends the walkie-talkie men into the front line. A minute gained in spotting an enemy battery might mean a battle won.

This emphasis on the fact that without communication there could be no Army of the modern kind is being placed because the average reader is apt not to grasp the vital importance of Signals. There must be tanks and antitank guns and jeeps and six wheelers and prime movers and divisions and generals and the infinite other items that go to make up armies and battlefronts but they would all stall if they could not talk and hear.

THE commodity the Signal Corps of today is primarily in the market for is brains. No definition seems required. Men are being drawn from the practitioners of science and mathematics and electronics and electrical and radio engineering. The best repair men and mechanics are being called for. It has been stated that before the present emergency is over the Signal Corps may have 5,000 officers and 100,000 enlisted men. In the first war there were 1,900 officers and 30,457 enlisted men. The estimated difference in numbers will be due to the recognized necessity for great speed and accuracy as well as the possible increased size of the armed forces. Conditions have changed. A reconnaissance flyer in the First War might get his instructions by reading a panel of white cloths laid out on the ground over which he was flying. He dropped his report by means of a little parachute. Captain Eddie Rickenbacker once saw an enemy column where no column should be. He had no para-

## CALLING ALL PLANES, TANKS, ETC.

chute to drop and on his way back to camp an enemy flyer crippled his plane. (N.B. He got the enemy.) He pan-caked to a stop, found the telephone wires at his airfield had been smashed, and finally sent his message in by truck. Today he would have talked to the commanding general himself the moment he spotted that column. The walkie-talkie men who will send their reports in from their sets right from the front lines will be able to operate on several bands. They can break in somewhere with their hot news. When Colonel Louis Johnson was Assistant Secretary of War, not so many months ago, he reported with delight that the sound pick-up devices were getting good:

"We can hear a plane 40 miles away," he said.

THAT was nice, of course. But a plane flying toward the Panama canal at 300 miles an hour could drop a bomb in eight minutes after it had first been heard. Unless the American combat pilots were sitting in their cockpits with their engines ticking they could not get into the air in eight minutes and the harm could be done. Nowadays enemy planes can be detected—well, no matter how far away; that's no one's business—certainly not the enemy's. Perhaps the noisiest spot on earth is inside a tank during a battle. Enormous motors are turning over,

gears and machinery are thumping; machine guns are rattling from their slits, and the cannon roars in the turret overhead. But the tank captain can hear through earpieces which have been sound proofed and can tell his commanding officer what he is doing and seeing by means of a microphone clamped on his throat. All Signal Corps stuff.

"When the war is over you will find the science of radio telephony will have benefited immensely by what the Corps is doing."

That statement must be both fined down and amplified. The radio industry has stopped making the devices which brought it \$200,000,000 a year. It will continue to make tubes and parts and replacements for receiving sets, for the administration knows that nothing in time of war—at least not many things—is so important as radio communication with the civilian population. But it will not make the sets itself, for it is now doing business almost entirely for Signals and for the other services which are allied with Signals. About 70 per cent of the Signal Corps personnel are listed as specialists in the new units which have been made for the new Army. These include:

Signal companies for aircraft warning;

Armored division;



**Q**"*The Signal Corps is the eyes and ears of the Army. Subtract the Signal Corps from any operation in the field and the Army would be a blind giant, confused and helpless. Its tanks would wallow into traps; its infantry charge valiantly into ambushes; its artillery would fire on targets that did not exist; and the observers in the planes overhead could only swear in futile anger at the tragic mess below.*"

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Aviation;  
Maintenance, aviation;  
Air wing; depot; repair;  
Signal battalion, armored corps;  
Signal battalion, air base.

**T**HE men are being trained in both military and commercial schools for the operation and maintenance of the many different types of equipment which have come into use. These new types not only include whatever may be needed in radio, telephony, telegraphy, and other forms of communication, but in the development and procurement of meteorological and photographic supplies except for special purposes which have been specifically allotted to other services by the War Department. The Corps must also prepare and keep up to date all the printed material issued for instruction purposes for these special services. In general the Signal Corps "performs all other duties usually pertaining to military signal communication."

Makers of jukeboxes and pinball machines have been switched into the making of the parts the Signal Corps needs.

Other manufacturers who have been called to handle different phases of the three billion dollar program include makers of cameras, refrigerators, typewriters, headlight bulbs, vacuum cleaners, electric fans, eyeglasses, and porcelain products. Each such manufacturer has facilities for making something Signals must have. Eyeglass manufacturers, for instance, assemble quartz crystals for controlling the frequency bands of transmitters. Even makers of ladies' dresses are making flags and the panels used for signaling to troop units and friendly aircraft.

To expedite the training of all troops, the Corps produces an excellent line of movies. American soldiers get acquainted with the men of the Allied services by seeing them in their camps, and listening to them talk and take orders. They are also trained in military courtesy, hygiene, first aid, and the operation of their own weapons.

**M**AJOR General Dawson Olmstead is the Chief Signal Officer. Recently he sent out a special recruiting mission, representing both the Civil Service Commission and the Signal Corps, on a coast-to-coast tour of the principal cities. Not only does the Corps need men but it needs men in a hurry, for the program of expansion must not be halted. The positions available carry pay ratings from \$1,800 a year up and applicants who are acceptable may go into service at once. The communications companies have been very coöperative not only in releasing their own valued employees, but in urging them to go into the Signal Corps. It is the understanding that every such man has been promised that his job will be waiting for him when he gets home from the wars. If there is any exception to this rule it has not yet been reported. As for the men themselves, they are reported to be somewhat cocky, with that cockiness that comes from a consciousness that they are among the aristocrats of the Army. The Signal Corps is one of the world's greatest organizations of engineers and specialists in radio, telephony, telegraphy, aircraft warning, and the more advanced phases of electronics.

That being the case the men of the Corps may be excused if they throw their weight about now and then. They

## CALLING ALL PLANES, TANKS, ETC.

### Visual Signaling during First War

**T**HREE was a period, immediately after the First War, when the methods of communication in the forward zone had actually deteriorated. Lamps and signal flags had been of little value in trench warfare and radio was still an imperfect instrument. The only practicable way for the commander of one unit to get in touch with headquarters was by runner and many an operation failed because the runners were cut down. In consequence training in visual signaling almost disappeared from the Army schedules."



are inheritors of a fine tradition. When the first man in what was to become the Signal Corps began to get the big idea, military signaling was perhaps at its best in the mountains hemming in Death Valley. All armies, of course, wigwagged news and used signal lamps and wrote notes, but the Indians of our own Southwest could convey the most varied information by means of a smudge of smoke and a wet blanket. If General Miles were alive today he could render first-hand testimony on that. He and his cavalrymen finally wore down Geronimo and his Apaches by dogged persistence and a lavish use of horseflesh, but there was not a minute of that historic campaign in which Geronimo did not know more about what Miles was doing than the soldier knew about the Indian. Yet it was possible, even then, to send signals in the new way.

**A**LBERT J. Myer graduated from Hobart college, in Geneva, N. Y., with an A.B. degree. He entered Buffalo Medical College, and his gradu-

ation thesis—"A Sign Language for Deaf Mutes"—contained the germ of the visual signaling system he devised later. He had been an apprentice telegraph operator while he worked his way through Hobart college and when he was commissioned assistant surgeon in the regular Army and stationed for three years in a post in New Mexico he began to put things together. Telegrapher—lip reader—sparkling southwestern air which made it possible to see incredible distances—and smoke signals from the mountains in which a savage enemy worked. In 1856 he got a patent on his wigwag devices and four years later the Army approved them and made him a major. Another four years and he was a colonel. The telegraph lines he built were in competition with the Military Telegraph built under the supervision of an Assistant Secretary of War. He was relieved from duty as Chief Signal Officer. But in 1865 he was brevetted brigadier general as a recognition of the value his signals had rendered the Union Army during the Civil War.

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The story now goes all-American. It is worth a paragraph, because it was repeated after the First World War and will probably respond to an encore when and if the world gets through with the present fight. In 1865 the Civil War was over. It was the general feeling that there would never again be a big war. The people were tired of war and wanted to get back to work. Congress snipped off the appropriations, and the Army saved a little money by doing away with the Signal Corps, just as the people and Congress agreed in the 1920's that there would never be another war and that soldiers would not be needed. But Colonel Myer seems to have been a long-distance thinker as well as a signal man.

**T**HE Smithsonian Institution had issued weather predictions based on telegraphic reports until the war interfered and was unable to resume the service after the war.

"This," Colonel Myer must have said to himself, "is where I come in."

Congress gave him a few men and a little money and permission to send out storm warnings. He coaxed other nations into collaborating in an international system of weather observations and the Signal Corps began to expand its ideas. Ft. Myer, Va., which sits across the Potomac from Georgetown and Washington, was named for him after he died as a brigadier general in 1880. He was succeeded by Brigadier General W. B. Hazen. He sent out several exploring expeditions to the Arctic, and was succeeded in 1887 by General Adolfus W. Greeley, who headed the famous Greeley expedition.

In 1917 the Corps had only thirteen

permanently assigned officers, being in one of its periodic downturns. Then we entered the war; the Corps was told to expand overnight to the size required for communications in the new Army and did so by advertising, through chambers of commerce and business-men's associations and through the aid of school men. The telephone, telegraph, and electrical supply companies were helpful then, just as they are being helpful now. The war ended, the Army dwindled, everyone agreed once again that there would always be peace. Congress began to call the ammunition makers Merchants of Death in recognition of the almost incredible efficiency with which they had provided the arms and ammunition which won the war, and the Signal Corps again withered. Now it is on its way up again.

**I**N this Second World War the Corps began its work with a backlog of experience. The underlying plan of war has not been changed since the stone-throwing days. Victory will always be won by the side that can kill the most men. But the means of killing have been immensely stepped up in speed, power, and costs. General Leonard C. Ayres, Cleveland economist who became the First War's statistician in 1917 and is the Second War's statistician now, told me the other day that it is possible that it costs ten times as much today to arm and equip a force of 1,000,000 men as it did then.

"Now we must have tanks, armored vehicles, planes, and the innumerable other things that a modern army demands. The difference in unit cost has not yet been reduced to figures, but it is certainly five or six or possibly ten times greater."

## CALLING ALL PLANES, TANKS, ETC.

And all that mass of moving men and machinery depends on Signals. The training of the recruits is being done in great part at Fort Monmouth, New Jersey, which is under the command of General Van Deusen. The principal activities of many of the elements of the Signal Corps are centered there and the newly joined men take a thirteen weeks' training course in signal communication and are then sent out to the Corps units throughout the country.

SIGNALING is not all of the story. Ordinary, everyday radio communication is simple by comparison. We all know something about how that is done. There is a broadcasting station, some clerks and operators, the necessary sponsors and talent, and permission from the FCC to use a certain band. Army radio is something else again. To quote from an enlightening article in *Radio News*:

"Commercial radio doesn't quite fit."

The field Army is the largest conventional unit of a force in a campaign. At the top are the headquarters organizations, various special units known as Army troops, and two or more Army corps. Each Army corps has its headquarters, its special units, and two or more divisions.

"Each division is composed of a number of smaller units, and each unit is a distinct entity with a distinct mission, which must have its own signals and its own means of getting those signals through. It would be simple enough to issue a receiving set to each individual and let the commander-in-chief broadcast his orders, but anyone can see that he could never give each member of his huge team detailed instruction covering that member's individual job. Each commander deals effectively only with the commanders of the next smaller units and they in turn deal with the next lower echelon. Each lower unit establishes its own separate net linking it to the next lower units and so on until the net reaches and controls the last rifleman or gunner on the front line. Each net is separate from each other net and must not interfere with it. In addition there must be at times direct communication with neighboring units of the same kind on the right and left, and with supporting artillery, aircraft, tanks, etc., with all of whom each phase of the action must be coördinated."

And if the action is not coördinated the battle may be lost.

THERE was a period, immediately after the First War, when the



**Q**"ARMY signaling is by no means entirely dependent on radio nowadays. The parachute troopers are supplied with lightweight sets, but on occasion they may also utilize rolls of light ground wire for telephonic communication. Radio is not entirely free from jamming and interference and enemy interception and it is therefore not practicable to place entire dependence on it. When movement stops it will often be possible to hook the front-line machine guns directly to headquarters by wire."

## PUBLIC UTILITIES FORTNIGHTLY

methods of communication in the forward zone had actually deteriorated. Lamps and signal flags had been of little value in trench warfare and radio was still an imperfect instrument. The only practicable way for the commander of one unit to get in touch with headquarters was by runner and many an operation failed because the runners were cut down. In consequence training in visual signaling almost disappeared from the Army schedules. Now, however, it is being revived as a standby when all other means have failed, but the Army places great stress on radio.

When the tank was in process of development the Army found that some means of certain communication was inevitable. The men in the tanks could not see the signal flags and were deafened to any sound of a runner's voice. Yet if the tank could not be controlled it would only be partially and fortuitously useful in combat.

Therefore the development of radio was brought about. It had to be. It was.

Army signaling is by no means

entirely dependent on radio nowadays. The parachute troopers are supplied with lightweight sets, but on occasion they may also utilize rolls of light ground wire for telephonic communication. Radio is not entirely free from jamming and interference and enemy interception and it is therefore not practicable to place entire dependence on it. When movement stops it will often be possible to hook the frontline machine guns directly to headquarters by wire. But radio is being constantly bettered. There is a net of fixed radio stations through whose operations the War Department keeps in direct and rapid touch with the whole Army, both in the United States and overseas. Of the approximately 50,000 licensed amateur radio operators in this country 1,200 have been organized by the Corps on a volunteer basis in various area networks and have rendered fine service. Under all the circumstances it looks as though three billion dollars for Signals is not a bit too much.

### The Union Shop

**“O**ur own belief is that the compulsory union shop, whether compelled by the 'economic power' of a union or the hand of government, is wrong in principle because it means the substitution of sheer physical power for free conviction as the basis of the member's loyalty to a union and favors belligerence as against intelligence in the emergence of union leaders. The union shop closed by free agreement at least implies these evils but almost certainly will produce them in milder form if at all. The main argument for the closed shop, that without it those dance who refuse to pay the piper, seems to us to assume that useful loyalty to a union can be compelled. Even if that be true of loyalty of a sort, there are better kinds of loyalty and better ways of obtaining it, better for unionism and for the country.”

—EDITORIAL STATEMENT,  
*The Wall Street Journal.*



## Does the Average Worker Prefer Public or Private Employment?

*That, in the opinion of the writer, depends upon the character of the worker—whether he wants security—with small salary and little chance of advancement—or whether he prefers to take his chance on holding a job in competition with others in order to get ahead in the world.*

By ALFRED M. COOPER

In the long run, the most important factor in the question of public *versus* private ownership of our utilities is not the matter of financial or operational economies. It rather is concerned with the effect of employment under conditions of civil service regulation on a considerable cross section of our populace. When this fact is better understood we will approach the public *versus* private ownership problem with more understanding and intelligence than we have yet shown in our consideration of it.

Civil service employment is an inescapable concomitant of public ownership, whether this ownership be municipal, district, state, or Federal. The effect of this type of employment on the individual, for good or for evil,

is right now most important to every citizen of the United States. This is true since each month finds a larger percentage of our population working for government, and there is no reason to believe that this ratio would diminish appreciably if world peace were to come tomorrow. The trend of young America is definitely in the direction of getting a job—a good job if possible, but some sort of a job in any case—under civil service. This is the average young person's idea of complete and lasting job security. Also to be considered is the growing tax consciousness of millions of workers in private industry who paid first income taxes in 1942. They will have to shoulder an increasing share of the burden of paying for government workers.

## PUBLIC UTILITIES FORTNIGHTLY

In a previous issue of PUBLIC UTILITIES FORTNIGHTLY I told of a young friend of mine who gave up a good job in a Los Angeles aircraft factory in order to answer his call from the civil service commission as mail carrier. This lad's argument was that the manufacture of airplanes might cease at any time, but that there would always be mail to be delivered. Multiply this case by millions and you have a pretty good picture of the state of mind of too many young high school or college graduates toward the matter of employment under private enterprise and under governmental civil service. Even those young people who have jobs in our privately owned defense industries feel they are but temporarily employed, and I am sure that a poll would indicate that most of these youthful artisans and clerical workers would welcome government acquisition of the plant in which they are at work, particularly if this action resulted in their being automatically blanketed into civil service.

To the more mature man or woman there is perhaps less attraction in the security offered by civil service employment. It may be that the experience these people have had has proved to them that there frequently exists a catch in any proposition that appears on its surface to be absolutely sure-fire and unbeatable. It may be that men and women brought up under conditions of employment under private enterprise have formed habits which they find difficult to break. Or it may be that these older folk, having been educated in a sterner school, feel that there is no future for themselves, for their children, or for America, in a soft eco-

nomic system in which the goal sought by the average individual is job security at the expense of other things more worth while.

What is the truth about employment under civil service regulation? Has it advantages for the individual over employment in private enterprise? Is it possible to secure advancement in civil service on the basis of merit alone? Does this system of employment place a premium on mediocrity? Does it kill initiative? Does it tend to reduce all employees to a common level of ambitionless plodding? Can civil service be set up in such a manner that favoritism, political pressure, and bribery cannot reach the commissions responsible for its fair and honest administration?

These are some of the questions I am frequently called on to answer. Knowing of my years of employment in privately owned and publicly owned electric utilities, it is assumed that I would have an understanding of the functioning of both systems of administration. Following is a fair answer to each of the above questions, based on my observation and experience:

1. **WITH** the single exception of job security, civil service employment can offer no advantage over employment in private industry. In every other element private employment should be preferable from the employee's viewpoint. The question to be decided, then, is whether job security in itself is worth more to the employee than opportunity for rapid advancement to better-paying jobs, and all other advantages that go with employment under the system of private enterprise.

## DOES WORKER PREFER PUBLIC OR PRIVATE EMPLOYMENT?

2. It is quite possible to secure advancement under civil service employment, but under the "merit system" there is always room for question as to the fairness of promotion. This latter assertion may sound strange, when you consider that many promotions are made as a result of the employee's showing in open, competitive examinations. It is nevertheless true.

To understand this it is necessary to consider certain facts regarding civil service examinations, some of which facts are well known, and others of which are little known. In the first place, you no doubt know that a war veteran automatically places ten points higher than another competitor in any civil service examination. Now, speaking as an exservice man, I am quite sure that this edge would be deserved if the examination were for the job of infantryman, or deckhand, or leatherneck. But no one can convince me that an efficient organization can be developed in which deckhands or leathernecks are given preferential 10-point ratings over civilian workers in examinations for such jobs as information assistant, or junior typist, or automotive mechanic. I do not question the social or political justification for such preference. I do question the administrative efficiency of such a system, *per se*.

IT stands to reason that under such conditions war veterans will take many civil service examinations, and pass, and be given jobs over the heads of better material. *This situation is acknowledged by every civil service commission in America, and the fact that not one of these commissions has dared to change its regulations in respect to war veteran preferentials proves that these commissions are strongly susceptible to the operations of political pressure groups.*

Promotional examinations are often given to civil service employees, but there is little question among the employees as to who will get any promotion that is open. Usually there is a man or woman among those examined who, through ability, political pull, or favor with higher-ups in the organization, is conceded in advance to be the winner of the promotion. Others then take the examination only to "get on the list" for that better job, just in case "something happens" to the new incumbent. Also, the lucky applicant for the promotion may be chosen by an executive from among the top-ranking *three* when the grades for the examination have been announced.

Invariably it will be found that the employee whose selection has previously been determined upon will land in one of the top three places.



Q "It is quite possible to secure advancement under civil service employment, but under the 'merit system' there is always room for question as to the fairness of promotion. This latter assertion may sound strange, when you consider that many promotions are made as a result of the employee's showing in open, competitive examinations. It is nevertheless true."

## PUBLIC UTILITIES FORTNIGHTLY

**T**HIS is one of the few practices in connection with civil service promotion with which I am in complete accord. Its operation directly nullifies the principle of the "merit system," but it results in an employee being chosen for promotion who, in the opinion of his superiors, is the right man or woman for that job. Which is exactly what happens in private industry when promotion is to be made. There are too many factors entering into the selection of, say, a new foreman or department head, that cannot be determined by either a written or an oral examination. Only long acquaintance with the individual counts here.

Thus, the closer civil service regulation approaches, although perhaps by subterfuge, the methods which have been employed for generations in private industry, the more nearly it functions for the good of the organization concerned. Unfortunately, there are few other instances in which civil service and private employment coincide in principle or method of operation.

Take, for example, the aforementioned written and oral examinations of applicants for civil service positions. Credits between these examinations are usually apportioned at the discretion of the examiner as fifty-fifty, or forty-sixty, or sixty-forty. No matter how perfectly the applicant may perform in the written examination, therefore, he may receive a grade of zero on the oral examination, and thereby be allotted a final grade below passing.

**I**N one city civil service examination the only question asked the applicants in oral examination was, "What is your home address?" All applicants

who resided in certain election districts were given high scores; the remainder were given less than passing scores. I am sure you will be glad to know that various members of this civil service commission were indicted by grand jury for permitting such flagrant miscarriage of justice in examinations.

The point is, however, that favoritism on some scale can exist in any civil service commission, and influence and prejudice can operate in favor of, or opposed to, any individual who takes an examination for a civil service job. This is true whether the members of the commission receive their appointments at the hands of Federal, state, or municipal authorities. Civil service commissions dare not be more honest and upright than the administration that creates them.

**3. Does civil service employment operate to place a premium on mediocrity?** I think it does, although some of the effect of inefficiency that is so apparent when you take over the direction of a group of civil service employees may be due to the low grade of help which civil service formerly attracted, and which has life-tenure ship on its jobs, even in a day when a higher class of worker conceivably is available for public employment.

The real proof that the civil service employee must inevitably tend to seek a level of accomplishment commensurate with that of the most mediocre of his fellows lies in the odd personnel policy in effect in civil service employee groups. The personnel manager of one such group expressed this policy to me in these words: "We want no competition among our employees here."

## DOES WORKER PREFER PUBLIC OR PRIVATE EMPLOYMENT?



### Promotional Examinations for Civil Service Employees

**"P**ROMOTIONAL examinations are often given to civil service employees, but there is little question among the employees as to who will get any promotion that is open. Usually there is a man or woman among those examined who, through ability, political pull, or favor with higher-ups in the organization, is conceded in advance to be the winner of the promotion."

We are one big, happy family, and we do not encourage employees to compete with one another for promotion. Such tactics can only result in lack of harmony and coöperation."

With such a Ghandi-like personnel policy in operation, and well publicized at that, it would be a brave employee indeed who would set out to excel another in production. Almost certainly this employee would lay himself open to the charge which, in that organization, was the worst that one could lodge against a fellow worker—that of "trying to make a name for himself."

**W**HEN you eliminate fair competition from business or employment, you kill initiative and lower standards, whether you know it or not. When promotion depends partly on seniority, and partly on promotional examinations which are already "in the bag" for someone, it is reasonable to

assume that the worker will soon settle himself to a comfortable day's output which leaves him a wide margin of safety from accusations of trying to make a reputation for personal industry or enterprise.

It is a fact that the new employee under civil service will, in the beginning, attempt to produce in the same fashion as when he was employed in a privately owned concern. It is also true that this employee is soon notified by his fellow workers that he must slow down or become exceedingly unpopular in his department. When the workman finds that his supervisor will not encourage him in going contrary to the suggestion of his fellow employees, he realizes that the day of winning promotion through outstanding performance is over, so far as he is concerned. After that no one has any complaint to make regarding superior quantity or quality of output from that worker.

## PUBLIC UTILITIES FORTNIGHTLY

Yet it would be unfair to leave the impression that this rule applies to all civil service employees. One of the most inspiring experiences you will have in contacting a group of civil service workers occurs when you find that inevitable American who simply will not submit to any attempt on the part of a system of employment to hamstring his initiative. This man, in a civil service organization, is continually in hot water, but he is going places against great odds, even under civil service. If this fellow has something on the ball, and does not lay himself open to charges which lead to his discharge, he will one day be running things around there, just as he would be if he were employed in a privately owned corporation. It would appear that he is promoted by each successive supervisor, just as a means of getting rid of him.

**4.** FINALLY, can civil service be set up in such a manner that favoritism, political pressure, and bribery cannot reach the commissions responsible for its fair and honest administration? The best answer to this question is to be found in the consideration of a typical civil service commission. How are its members appointed? Who has the power to remove them from office? What incentive is offered to a commissioner for fair and impartial discharge of his duties?

Consider, as a typical example, the civil service commission of any large American city. It has perhaps five members. These men and women are customarily appointed by the mayor and their appointment is approved by the city council. They serve without remuneration, or at best receive some

such sum as \$5 for each half day they spend at the city hall—usually three half days each week. If you have ever attempted to devote three half days each week to any nonremunerative activity, you will understand that these commissioners have very little opportunity to earn a living. Therefore, they must be citizens with independent incomes and an excess of civic pride, for their job is not an easy one.

**B**y whatever means these men and women received their appointments, it is evident that they are exactly as independent in their actions as are the members of the board of police commissioners, or the members of the board of public works. In other words, they are a part of the administration in office at the moment, and will have their jobs only so long as this administration remains in office—or until they displease the powers that be in this administration.

As I have said, it should be evident that any civil service commission can be only as honest as is the administration it serves. If the mayor, or a councilman, wants a favor from the commission, it is unreasonable to assume that this request will be ignored. If more people hailing from Precinct 12 are passing civil service examinations than are those who live in Precinct 8, it is natural for the councilman from the eighth precinct to do what he can to raise the grades of his constituents.

Civil service commissioners are as honest as any other city commissioners. Perhaps they are a bit more honest, since the members of this commission often are selected with the thought of impressing on the voters the fact that the administration in question is out

## DOES WORKER PREFER PUBLIC OR PRIVATE EMPLOYMENT?

to give the common citizen honest government. Indeed, the tendency of the average civil service commission to lean over backward when protecting the rights of the downtrodden workingman makes matters exceedingly tough for the supervisor in public service who wishes to prefer charges against an utterly worthless subordinate. In hearing these charges, it is the supervisor, and not the subordinate, who actually is tried by the commission.

**N**EVERTHELESS, and despite the best intentions of civil service commissioners, there is bound to creep into examinations and appointments at least as much favoritism as occurs in promotions under private employment. And, unfortunately, this favoritism may operate to aid men and women of inferior worth to a degree that would be impracticable, from a standpoint of purely selfish gain, in a privately owned organization. You cannot make money with a working force that is employed and promoted for political reasons.

From the employee's viewpoint, the question he must decide for himself is: Do I prefer to work in an organization in which I may take it easy for a rather small salary, on a job that is safe and sure, or, would I rather take my chances on holding my job in competition with others, in order to have an opportunity to get ahead in the world according to my ability? Beyond this question, however, there is another which every American workman must soon ask himself. It is this: Do I want to live in a socialized state, in which all life and activity are dictated and circumscribed by government; or, do I want to live under the system of private enterprise and initiative which has made our country the greatest industrial democracy the world has ever known?

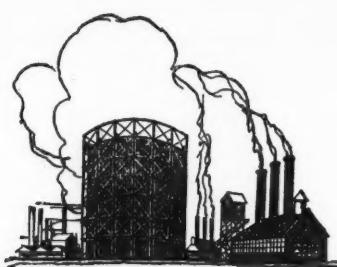
**T**HE individual workman will answer this question, for himself and for his children, depending on whether he now prefers to work for a privately owned corporation, or for the government.



A "General Staff" for Business

"**I** WOULD like to see the representatives of all our leading trade associations get together in one convention hall, determined to remain in session until they found the best approach to national unity, a realistic answer to the threat of inflation, a sound formula for our labor problems, and the right pattern for a fair and equitable system of taxation. In other words, a 'general staff' of business to promulgate a 'general plan' for victory."

—BENJAMIN H. NAMM,  
National chairman, Retail Advisory  
Committee to the U. S. Treasury.



# A Great Metropolitan Utility Company Prepares for War

The Consolidated Edison system takes all possible steps to provide service, come what may

By JAMES BLAINE WALKER

**T**HE world's biggest single public utility system operating within the same metropolitan area is the Consolidated Edison Company of New York. It has already put into effect comprehensive plans to aid the war effort, to protect its patrons against interruption or deterioration of service, while making generous provision for such employees as must leave employment to join our fighting forces.

By the end of the year 1941 about 700 employees of the system had left their jobs for active service with our armed forces. The current policy provides for military leave of absence for any regular employee serving in the Army, Navy, Coast Guard, Marine Corps, their reserve corps, or any other units subject to the orders of the War or Navy departments. The leave will be for the period of active service, but not beyond six months and forty days

after official declaration of peace with all nations. After that he is entitled to reinstatement in his old job, or in a position of like seniority, unless the company's circumstances have so changed as to make it impossible or unreasonable to do so. Employees on military leave will receive their company pay for three months. War-time leave of absence for the duration of the war will be granted to technical employees and mechanics now needed in war industries and government service.

The Consolidated Edison Company supplies not only electric service, but also gas and steam for lighting, heating, and manufacturing purposes. Indicative of the vast extent of its business, the last annual report shows that its operating revenues for 1941 were \$259,786,581. It earned per share \$15.53 on preferred and \$2 on common stock.

## GREAT METROPOLITAN UTILITY COMPANY PREPARES FOR WAR

A recent official statement said:

With ample electric, gas, and steam reserves and interconnection with sources of supply to assure reliability and give flexibility of operation, system companies are ready to meet the challenge of war-time conditions, company officials point out.

Corresponding to electric ties with upstate power sources through the Niagara-Hudson system, a gas tie-in between Consolidated and Brooklyn Union Gas is being made, Brooklyn Union mains joining the Edison system in the Astoria to Flushing link. This forms a gas pool in the Metropolitan district, embracing besides these two companies Brooklyn Borough Gas Company, Kings County Lighting Company, and Westchester Lighting Company.

THE announcement says that segregation of distribution facilities, so that interruption of service to one section of New York city would not interfere with service to other sections, virtually is completed. Electric networks were isolated from each other several years ago; steam lines can be shut down at frequent intervals; and further segregations of gas distribution areas have recently been effected.

Since war-time emergencies occur mostly at night, construction forces in both electric and gas divisions have been increased. Speedy mobilization of men, materials, and transportation to augment normal forces has been provided for. These forces also would provide emergency help for generating stations, gas plant substations, and holder stations.

A pool of man power 5,000 strong and more than 500 motor vehicles distributed throughout the boroughs are available for repair and restoration of service in a major emergency. Schedules provide for the assembly of these forces at key points, where private telephones or messenger service will be available should normal communications fail.

THE gas companies of the city have issued instructions to citizens as to what to do in case of actual bombing. These instructions have been advertised in the newspapers and circulated in leaflets.

In case bombs fall close enough to rattle windows violently and cause residents to feel a distinct jar, there is possibility of local damage which might affect the gas supply. In such case residents should shut off the control cock on the inlet to the gas meter. A monkey or other wrench should be kept handy for such purpose. The turning off should be made slowly. In case difficulty is experienced gas users are instructed to call in a plumber. The gas companies maintain inspectors who instruct janitors and superintendents how to handle turn-offs.

After conferences with the mayor of New York city, the gas companies, in newspaper advertisements, gave instructions to the public on how to black out windows and still enjoy normal lighting. These instructions, accompanied by drawings, inform the householder how to make a blackout screen, which can be hung when required and stored when not in use.

IN announcing plans for personal and plant protection the company tried to anticipate actual war conditions and has issued instructions as to what must be done. The Brooklyn Edison Company has joined in these instructions. Employees have been told to seek safety zones on the sounding of an air-raid alarm and to remain in them until the "all clear" is sounded. Movement to safety zones in company buildings will be directed by air-raid wardens chosen from among the buildings department

## PUBLIC UTILITIES FORTNIGHTLY

employees, of whom 150 are classed as experts.

Telephone operators and others who must remain on the job are protected by steel screens over windows and placing sandbags against skylights. Emergency cabinets containing fire equipment will be supplied with emergency articles such as rope, shovels, hard hats, gloves, and a first-aid kit. In plants for electric, gas, and steam substations, comparable measures are to be taken. Employees are expected to remain at their stations until warned by a "spotter" who has actually sighted enemy planes.

**A**s gas can be stored in some quantities to last for some time, water gas machines will shut down, coke ovens will not be charged, and all operations in connection with oil will be discontinued during raids.

While black-out proceedings may not be necessary, dimout experiments have been made. One generating plant has been able to establish a blackout in two minutes. In one experiment it was so effective that a tugboat steamed past its wharf on account of the black-out.

**T**HE Edison system's operations cover a vast territory. It includes all boroughs of the city of New York except Richmond (Staten Island). Hence it serves Manhattan, the Bronx, Brooklyn, and Queens boroughs. North of New York its service extends to the city of Yonkers and the rest of Westchester county clear up to the Putnam county line on the west and to Poundridge township on the east, south of Somers township. In this large territory the Consolidated Edison system at the end of the year 1941 had 24,697 miles of overhead electric wire, 44,450 miles of underground electric cable, 3,829 miles of gas mains, and 52.3 miles of steam mains.

Because of the large reserve of electric generating capacity of the system, it has not been necessary to install new facilities for war uses.

It is interesting to note that the Consolidated Edison is the direct successor of the first gas company established in New York, chartered in 1823. Its electric properties are successors of the Edison Electric Illuminating Company of New York, founded by Thomas A. Edison, which began operating in 1882 at the Pearl street station.

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### Fight between Government and Business

**G**OVERNMENT will make mistakes and the businessman will be in a better position to see them than will government itself. But if the businessman will reconcile himself to a reasonable degree of control and will try honestly to make it work as well as possible—instead of fighting it every step of the way—then he will have a definite and important place in the new scheme of things. If not, government is likely to push him aside. After all, the businessman has no 'inalienable rights' under the Constitution which are not possessed equally by the ditch digger, coal miner, and tenant farmer."

—PAUL T. BABSON,  
President, *United Business Service*.

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## Wire and Wireless Communication

THE recent unanimous decision of a 3-judge Federal court for the western district of Missouri has apparently checked jurisdictional ambitions of the FCC to move into a controlling position with respect to local exchange rates in communities situated near state boundary lines.

Specifically, the court upheld and interpreted the so-called "anti-Shreveport" clause of the Communications Act, § 221(b), as forbidding the FCC to regulate local exchange rates, even where they involve messages moving across state lines. In the case at bar, the Southwest Bell Telephone Company has reclassified a number of suburban exchanges lying on both sides of the Kansas and Missouri state line which had previously been connected only by interstate toll service. In the process of the reclassification, these suburban exchanges became part of the common Kansas City exchange district.

The FCC took the position that this was a mere device to oust Federal jurisdiction and that Congress did not intend that the FCC should lose jurisdiction which had once been established by reason of an act of the telephone company. Accordingly, it had ordered the Southwestern Bell Telephone Company to file tariffs covering the new service. The Federal court opinion quoted comments by Senator Dill, author of the Communications Act, to the effect that it was the specific intent of Congress to leave jurisdiction over all matters in con-

nexion with exchange service with the state commissions.

The decision vindicates the position taken by the general solicitor of the National Association of Railroad and Utilities Commissioners, John E. Benton, who was active at the time the Communications Act was passed, in having § 211(b) inserted in order to preserve state jurisdiction over telephone service from becoming subordinate to Federal regulation.

\* \* \* \*

PREFERRED applicants for new telephone service must demonstrate that the service is necessary to discharge war or essential public activity in which they are engaged, the War Production Board ruled in a recent interpretation of the telephone conservation order, L-50.

As amended, the order places general restrictions on the types of telephone service which can be installed by the phone companies throughout the nation and sets up a classification of persons engaged in war or essential public activity who may obtain preferential treatment in getting new service or a change of service.

\* \* \* \*

DRASTIC war-time restrictions will prevent any new or additional telephone installations in Seattle's central area, except in a rigidly limited number of "essential" cases, Frank D. Cleary, district manager of Pacific Telephone &

## PUBLIC UTILITIES FORTNIGHTLY

Telegraph Company, announced recently. The restrictions, which became effective May 28th, resulted from the recent War Production Board's limitation order (L-50), and affect all telephones served by the MAin, ELiot, and SEneca exchanges.

The principal exceptions are for telephones required by war or civilian defense agencies, organizations engaged directly in the war effort, or for purposes of public health, welfare, or public security.

Facilities at the MAin, ELiot, and SEneca exchanges are now burdened to a point where the small reserve capacity remaining must be held for Army or Navy demands, the telephone executive commented.

Pending possible further restrictions, new telephones still will be installed in residential areas not served by any of the three exchanges where expansions have been halted. Users will, however, be placed on party lines, unless their needs are so essential as to require fuller services.

\* \* \* \*

**T**HREE is no rationing of telephone service—yet. But the Utah Public Service Commission on May 29th warned that telephone calls, particularly on party lines, must be made short and snappy. Long, gossipy conversations are out for the duration. They are a luxury a nation at war cannot afford, because they use facilities that must be kept open for essential calls.

Chairman George S. Ballif of the commission pointed out that new installations have been restricted severely by the government, and at the same time telephone business in Utah has increased substantially because of the many war industries in this state.

There are more than 70,000 telephone stations in Utah, half of them in Salt Lake City. Two-thirds of these are party lines. The commission has found that much of the bad service complained of by customers is due to their excessive use "by individuals carrying on long social conversations or visiting over the

telephone." The commission cannot resort to wire tapping, but Mr. Ballif declared that those who tie up lines unnecessarily "will be known to us."

\* \* \* \*

**F**OLLOWING close on the heels of the recent withdrawal of a proposed 15 per cent increase in telephone rates in Iowa, events indicate that associated companies of the Bell system have decided to defer, for the time being at least, attempts to obtain local rate increases. Such evidence appeared in Madison, Wisconsin, Kansas, and North Dakota, served respectively by the Wisconsin Telephone Company, Southwestern Bell Telephone Company, and the Northwestern Bell Telephone Company.

On the other hand, one independent telephone company, Nebraska Central, asked and received from the Nebraska State Railway Commission authority to increase rates in four small exchanges.

Madison, Wisconsin, telephone rates will remain at their present schedules, probably for the duration.

On May 26th the period expired during which a motion for a rehearing or an appeal to the courts could be taken from the judgment of the Wisconsin Public Service Commission dismissing the application of the company for an increase in Madison rates, including a request to introduce the metered system.

The Wisconsin Telephone Company served no notice of either a motion for a rehearing or an appeal from the commission's order, and the judgment is now final and immune from attack.

The commission, however, left a door open for a further company action by stating in its decision it would receive without prejudice an application from the company for a statewide revision in rates.

Explaining that unsettled economic conditions resulting from the war emergency make it difficult to predict future conditions, the Kansas Corporation Commission on May 29th voted to delay until after the war an application of the Southwestern Bell Telephone Company to put into effect new rate schedules. It

## WIRE AND WIRELESS COMMUNICATION

is understood that the company has acquiesced in the commission's action.

**T**HE North Dakota Public Service Commission on May 25th announced withdrawal by the Northwest Bell Telephone Company and the Dakota Central Telephone Company of their application for an average 15 per cent intrastate telephone rate increase for 102 North Dakota communities.

C. W. McConnell, commission member, said no particular reason was given by the telephone companies, although the companies said they would further study their financial situation and later "take appropriate action." McConnell said it was possible the companies may apply again later for rate increases. A hearing had been set for June 3rd at which time merits of application were to have been discussed.

He declared that rate increases as originally applied for would have cost users in the state approximately \$385,000 additional annually.

The application had proposed increasing intrastate long-distance rates 5, 10, and 15 cents per call, depending upon distance between exchanges, on regular 3-minute conversations. No changes had been sought for rural telephone rates on farm line service. Increases had also been sought on one-party residence and business telephones.

Nebraska Central Telephone Company received state railway commission authority to increase rate schedules for exchange service in its Gibbon, Ansley, Berwyn, and Comstock exchanges effective June 1st.

Increases range from 25 to 50 cents per month on lower types of service and 75 cents per month on business phone service. The company leases its Comstock exchange.

\* \* \* \*

**A**s supplementary to its recent bulletin showing that the use of the telephone in Britain since the war began had increased more than 50 per cent in both local and long-distance calls, the British general post office states that in that time

some 700,000 telephones, 600,000 dials, 300,000 bells, and 27,000 switchboards had been repaired in post office factories.

\* \* \* \*

**T**HE New York Public Service Commission last month ordered the New York Telephone Company to print on the back of its monthly bills a mathematical formula whereby subscribers might determine the amount of taxes in their bills.

The order, approved by a vote of 3 to 2, was made in lieu of a requirement that the company list separately on the face of the bill the 6 per cent Federal tax and 1 per cent New York city tax.

At hearings held before Commissioner George R. Van Namee, the company stated that listing the taxes separately on the face of the bill would require a change in its form and would greatly increase billing costs.

\* \* \* \*

**A**LL public radiotelegraph circuits within the continental limits of the United States on May 28th were ordered closed, effective at midnight June 30th, by the Defense Communications Board.

In ordering closure of public domestic point-to-point radio circuits, the DCB said transmission of private messages over these circuits could be heard and easily monitored outside of the United States. The DCB said:

In many instances, the nature of these private messages can give information of value to the enemy. The burden of possible censorship has been deemed insoluble within reasonable limits of available man power and funds. In any event, the censorship which would be necessary if these circuits remained would involve a delay in transmission not necessarily found in the case of domestic wire circuits.

If on recommendation of the Federal Communications Commission the DCB should find any radio circuit "necessary to meet a vital public need," the announcement said, "it will follow as a matter of course that they will be effectively censored."

Not affected by the order are coastal

## PUBLIC UTILITIES FORTNIGHTLY

and ship-to-ship radio stations which are under control of the Navy.

Eighty stations operated by 11 companies are affected. The chief radio carriers are RCA Communications, Inc., Mackay Radio & Telegraph Company, Tropical Radio Telegraph Company, Globe Wireless, Ltd., Press Wireless, Inc. (press only), Radiomarine Corporation of America, Central Radio Telegraph Company, Michigan Wireless Telegraph Company, Wabash Radio Corporation, Pere Marquette Radio Corporation, and the Western Radio Telegraph Company.

The DCB described the total traffic of the 11 companies as "quite small" in comparison with all domestic message volume. Chairman James L. Fly of the DCB and FCC said adequate wire line communication facilities were available to all users of the domestic radio circuits.

\* \* \* \*

**U**NDER legislation approved on May 26th by the House and sent to the Senate, the Federal Bureau of Investigation and the Army and Navy Intelligence services could tap telephone lines and other communications sources any time they suspected an offense had been committed or was about to be committed against the national security. If they obtained damaging evidence by this method, they could use it in court.

Republicans and Democrats alike argued the necessity of the measure to combat subversive activities. One of its chief supporters, Representative Hobbs, Democrat of Alabama, told the House the Judiciary Committee knew positively that "there would have been no Pearl Harbor attack" had the legislation been in effect prior to December 7, 1941.

The Judiciary Committee called to the attention of the House an excerpt from the report of the Roberts commission on the Pearl Harbor attack citing the difficulties government agents encountered in following Japanese activities in Hawaii prior to December 7th.

The contents of messages sent to Tokyo by the Japanese consulate at Honolulu "might have furnished val-

able information" if they could have been learned, the commission reported, but because of restriction on the activities of investigation agencies "they were unable . . . to obtain and examine messages transmitted through commercial channels by the Japanese consul or by persons acting for him."

In overwhelmingly approving the bill, the House reversed its stand of last summer when it rejected a similar proposal on the ground it might lead to abuses and invasions of privacies guaranteed by the Bill of Rights. Previously it had expressly decreed, in the 1934 Communications Act, that no unauthorized person might intercept any communication and divulge its contents.

In reversing itself, the House limited the effective period of the new legislation to six months after the end of the war, unless terminated sooner by Congress or presidential decree.

Incorporated in the legislation were requirements that before the interception or tapping of communications could be resorted to, there must be a strong suspicion that there was about to be committed an act of treason, sabotage, sedition, or violation of laws regulating the operations of foreign agents. Even then, the head of the agency making the investigation would be required to give his approval.

\* \* \* \*

**I**N order to permit telephone companies to balance inventories, swollen as a result of increasing demands by war agencies for service, the War Production Board on June 3rd postponed until September 1st the inventory restrictions contained in orders assigning preference ratings for materials necessary to the operation of the companies. Preference Rating Orders P-129 and P-130 assign an A-3 rating for materials necessary for maintenance and repair and for materials for normal operating supplies, respectively. The orders, effective April 23rd, contained a stipulation that the A-3 rating could not be used unless inventory was held to a practical working minimum.

# Financial News and Comment

By OWEN ELY

## *Effects of Taxes on First-quarter Earnings*

COMPLETE quarterly earnings figures are not available for all the electric light and power systems, but the table on page 826 analyzes some of the published reports. As a result of substantial gains in output over last year, 12 out of 13 systems (including 4 gas companies) showed an average gain of 10 per cent in net before Federal taxes. However, Federal tax accruals showed an average gain of 90 per cent over last year, and as a result only 2 out of 16 companies (Lone Star Gas and Peoples Gas) were able to show a net gain in share earnings.

The average drop in share earnings for the entire 16 companies was 23 per cent. (Figures were for preferred stocks of 2 companies and common stocks of 14 companies.)

The increased earnings before Federal taxes would doubtless have been converted into larger share earnings in practically all cases if Federal taxes had remained unchanged. In the case of American Water Works the increase in taxes resulted in a 79 per cent reduction in earnings, whereas if taxes had remained unchanged earnings would have increased about 129 per cent. This is, of course, an extreme instance due to the "leverage" factor.

The utilities have not used uniform methods in accruing this year's taxes but it seems probable that the accruals may have averaged about 45 per cent income tax and 75 per cent excess profits tax. As noted in previous discussions, the present House committee program is more favorable than the earlier Mor-



genthau proposals; but, nevertheless, companies paying excess profits taxes would be hard hit by the House-proposed 94 per cent rate. The worst effects would be felt by the largest systems (because of smaller exemptions in the new law) except to the extent that they might resort to nonconsolidated returns of subsidiaries.

THE May bulletin of the Edison Electric Institute contains President C. W. Kellogg's statement on taxes, submitted April 21st to the House committee. Mr. Kellogg pointed out that net income of the utilities decreased 3 per cent last year. (With stable taxes, we estimate, net income would have been up 16 per cent.) He estimated that, based on the Treasury proposals, 1942 net income might show a further drop of 30 per cent.

Mr. Kellogg suggested the following changes in the tax program to ameliorate the position of the utilities:

1. Allow the deduction of preferred dividends in the computation of corporate gross income for tax purposes. The utilities require about eight times as much fixed capital per dollar of annual gross earnings as does the average industrial concern. In raising this capital by the sale of securities, bonds are unsalable unless supported by about an equal amount of stock. In recognition of this situation it would be logical to allow the deduction requested.

2. Exempt utility companies from the excess profits tax (since they are regulated as to earnings by governmental bodies).

3. As an alternative to the second proposal, allow utility companies to deduct income and surtaxes in computing excess profits net income, as was provided in the 1940 Revenue Act.

Mr. Kellogg pointed out that taxes last

## PUBLIC UTILITIES FORTNIGHTLY

### ANALYSIS OF FIRST-QUARTER CONSOLIDATED EARNINGS REPORTS (000 omitted)

	Net before Fed. Taxes			Federal Taxes			Share Earnings		
	1942	1941	Incr.	1942	1941	Incr.	1942	1941	Incr.
<i>Electric &amp; Gas Companies</i>									
Amer. Gas & Elec. ....	\$3,175	\$2,822	13%	\$1,158	\$ 592	96%	\$.75	\$.84	D11%
Amer. Water Works....	7,145	6,306	13	2,947	1,589	.86	.06	.28	D79
Commonwealth Edison ...	16,129	15,403	4	7,950	3,124	155	.41	.56	D27
Commonwealth & Southern ..	20,332	18,134	12	7,651	5,553	38	2.11*	2.23*	D6
Consolidated Edison .....	23,206	22,330	4	5,563	3,433	62	.89	.99	D10
Consolidated Gas (Balt.) ...	†	†	†	†	†	†	1.24	1.25	D1
Federal Lt. & Traction ...	1,010	871	14	454	221	111	.48	.51	D6
Indianapolis P. & L. ....	1,832	1,602	14	987	489	102	.38	.77	D51
L. I. Lighting .....	†	†	†	†	†	†	1.49*	1.65*	D10
Public Serv. of N.J. ....	†	†	†	†	†	†	.43	.83	D48
So. Calif. Edison .....	5,743	5,068	14	2,139	1,085	96	.32	.48	D34
United Gas Improvement ...	12,122	11,986	2	4,754	3,425	39	.16	.24	D33
<i>Gas Companies</i>									
Brooklyn Union Gas .....	1,779	1,550	14	485	223	118	.83	.86	D3
Columbia Gas & Elec. ....	11,475	12,470	D7	8,985	4,047	122	.08	.31	D74
Lone Star Gas .....	5,669	4,816	18	1,011	415	144	.85	.80	6
Peoples Gas, Lt. & Coke ...	3,447	2,900	19	1,301	890	46	2.43	2.12	15
Averages .....				10%			90%		D23%

D—Deficit.

\*Preferred stock.

†Not available.

year absorbed 20 per cent of the revenue dollar, compared with 10 per cent in 1930, while expenses (including depreciation and maintenance) took 50 per cent compared with 46 per cent. Thus the remainder available for return on investment and extensions dropped over one-third, from 44 per cent to 30 per cent of the revenue dollar. The downward trend of electric rates (see accompanying charts) emphasizes why utilities cannot meet big tax increases with the increased amount of business handled. Because of the low wholesale price of electricity to industrial consumers, revenues of the electric light and power companies increased only 9 per cent last year, compared with 49 per cent for manufacturers of durable goods and 29 per cent for nondurable manufacturers. Manufacturers were able to show an average gain in net of 20 per cent, while the utilities' net dropped 3 per cent.

Mr. Kellogg pointed out that the principle of excess profits taxes should not apply to the utilities, since their earnings are limited to a "fair return" by the local commissions. He stated that "this service-at-cost principle is clearly

recognized by the Federal government by exempting its own power projects from all Federal taxes." He also pointed out that it is impracticable to offset heavy excess profits taxes by granting local rate increases.

### *Commonwealth & Southern to Appeal Death Sentence*

**T**HE annual report of Commonwealth & Southern, recently issued, seems to indicate that the company will appeal to the courts over the "death sentence" provisions of the Utility Act. Principal issues between the company and the SEC are the retention of the southern properties under single ownership, and the method to be followed in recapitalizing the parent company. The SEC recently rejected the company's petition for rehearing of an order to reduce capitalization to an all common stock basis under § 11 (b) (2) of the Utility Act.

However, President Whiting remains hopeful that some compromise plan can be worked out with the SEC, which will be "fair to both classes of stock."

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## FINANCIAL NEWS AND COMMENT

### *Transition to a Peace-time Economy*

THE old saw, "hope springs eternal," is particularly true in war time. A recent cessation of bad news from the military frontiers has led to hopes that the war might end in Europe by fall, in Asia next year. The Stock Exchange even enjoyed a one-day "peace boomlet" until Mr. Roosevelt squelched undue optimism with his press comment that it would be a long war. In any event the growing peace psychology caused market analysts to begin classifying stock groups as war, peace, or "bridge" stocks.

In our opinion the utility industry should have relatively little difficulty in bridging the gap between a war and peace economy, for the following reasons:

(1) Electricity is one of the most "fluid" products and, except for a few changes in connections, it can be used for peace-time industrial output as well as for war production.

(2) Blackouts and dimouts, which affect coastline companies such as Consolidated Edison and Pacific Gas and Electric, will automatically end.

(3) While industrial sales of electricity to war plants will probably be considerably reduced, because of partial cancellation of war orders, such business

in most cases is of a low-profit character.

(4) Residential load should improve because of renewed sale of electric household appliances.

(5) Much of the burden of any temporary change in earnings would be absorbed by Federal taxes.

(6) Since taxes are the principal problem faced by the utilities, any post-war diminution in rates would naturally prove favorable to earning power.

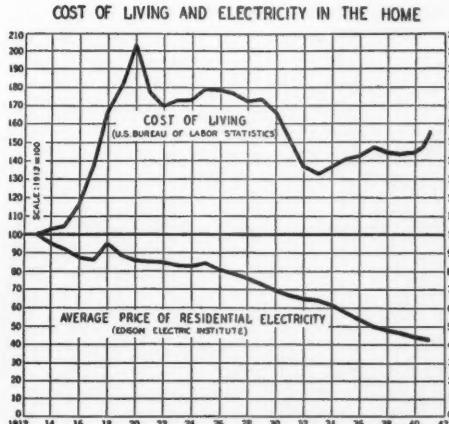
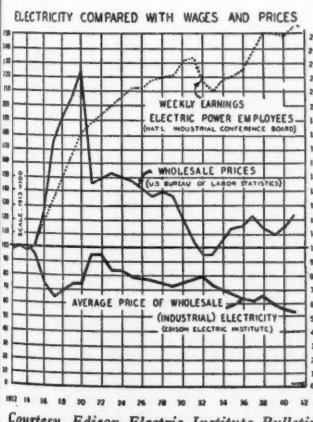
### *Utility Dividend Reductions*

CURRENT indicated dividend rates as compared with those paid by leading utility companies in 1940 and 1941 are shown on the following page.

Among the holding company preferred stocks, American Power & Light last year paid \$5.25 on the \$6 preferred and \$4.375 on the \$5 preferred; but in the second quarter this year the rate was cut to one-half the regular amount.

American & Foreign Power preferred last year paid one-quarter of the regular rates (including a double dividend in the last quarter) and this year appears to be continuing the same rate.

American Water Works and its subsidiary holding company, West Penn



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	1942 Indicated	1941 Total	1940 Total
<i>Holding Companies</i>			
American Tel. & Tel.	\$9.00	\$9.00	\$9.00
American Gas & Elec.	1.70	2.00	2.00
American Lt. & Traction	1.20	1.20	1.20
Columbia Gas & Elec.		.10	.30
Federal Lt. & Traction	*1.00	2.75	4.00
Louisville Gas & Elec. "A"	1.50	1.50	1.50
Middle West Corp.	.20	.40	.25
National Power & Light		.45	.60
North American Co.	†	†	1.20(a)
Pacific Lighting	3.00	3.00	3.00
Public Service of N.J.	.90	1.95	2.40
United Gas Improvement	.45	.75	1.00
<i>Operating Companies</i>			
Boston Edison	2.00	2.00	2.00
Brooklyn Union Gas	.75	...	.75
Commonwealth Edison	1.80	1.80	1.80
Consolidated Edison	1.60	1.80	2.00
Consolidated Gas (Balt.)	3.60	3.60	3.60
Detroit Edison	1.40	1.40	1.20
Lone Star Gas	.70	.70	.70
Pacific Gas & Electric	2.00	2.00	2.00
Peoples Gas, Lt. & Coke	4.00	5.00	3.40
Southern California Edison	1.75	1.75	1.90
Western Union Telegraph	2.00	2.00	1.00

\*The regular rate last year was \$1 plus special distributions in July and December. Since payments were considerably in excess of earnings last year, the payment of extras in 1942 would seem to be in doubt.

†Dividends paid through partial distribution of investment holdings.

(a) Plus stock.



Electric, have continued their regular preferred dividends, although market prices would seem to indicate some doubts. Columbia Gas and Engineers Public Service preferred issues are in the same category.

Commonwealth & Southern recently discontinued its long-standing payment of half the regular \$6 rate, dividend income from the operating companies having been discontinued due to taxes, etc.

Electric Bond and Share continues to pay its regular preferred dividend although the annual report for 1941 indicated that some difficulties might be encountered in the future if taxes prove burdensome, etc.

Electric Power & Light is stepping up its payment on the preferred issues slightly, since there will be four quarterly payments aggregating one-fifth of the regular dividend rate, compared with three such disbursements last year.

(Technically, however, the payment made December 31, 1940, might be included in the 1941 total.)

There seems to be little doubt that regular payments will be maintained on National Power & Light preferred. The exchange offer for two shares of Houston Lighting has recently been extended, and will (if the SEC permits) be aided by a banking syndicate.

### Reminiscences

THE *Wall Street Journal* in its special issue of May 18th, commemorating the 150th birthday of the New York Stock Exchange, published a historical sketch of listed utility securities. Among other interesting facts the story pointed out that—

Honors for the first utility stock to be traded on the New York Stock Exchange

## FINANCIAL NEWS AND COMMENT

appear to be divided between New York Gas Light and New Orleans Gas Company, the former having been quoted in 1827 at 139-140.

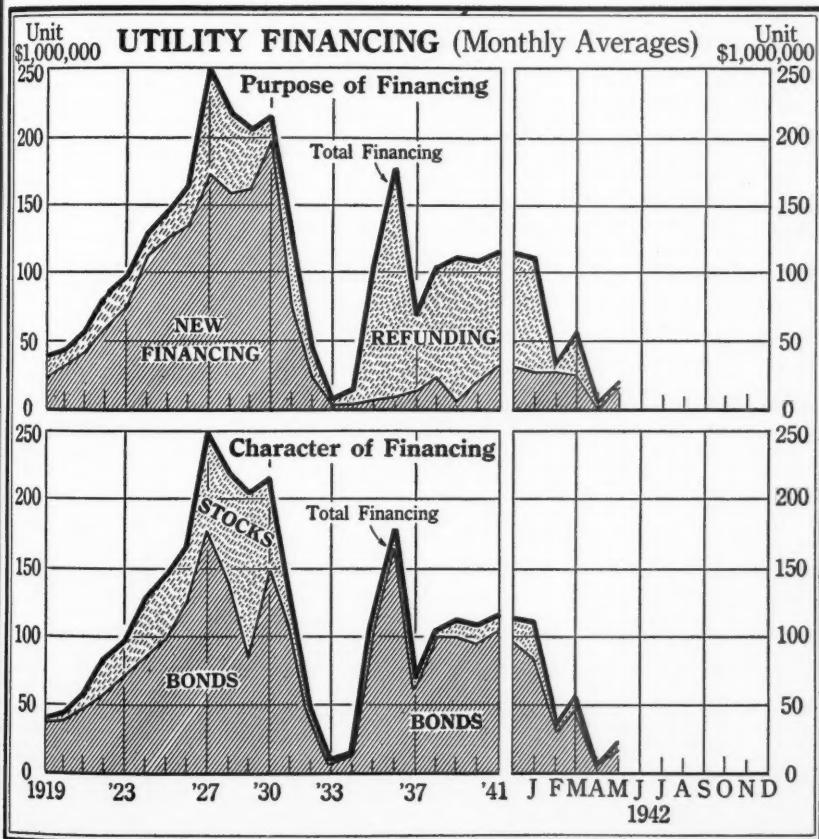
Most of the big holding company issues appeared on the board during the 1920's when there was a "mad scramble" to build the biggest system.

At the beginning of 1942 there were 213,730,000 shares of utility common stocks listed on the Stock Exchange, with a market value of about \$3,887,000,000; there were 22,910,000 preferred shares selling at \$1,314,000,000.

Most of the companies that listed securities, even in the 70's and 80's, were

holding companies at one time or another, and the listing apparently reflected a search for a wider market. Thus, Consolidated Gas (now Edison) started as a holding company in 1884 and in the following year listed 390,078 shares—the largest listing to that date—representing a merger of five gas companies. Similarly Chicago Gas Trust Company (fore-runner of Peoples Gas) listed 250,000 shares in 1888, as a result of a merger of three companies designed "to stop bitter competition." It later acquired eight other companies.

Philadelphia Company followed in 1886, its application boosting the quali-



Source: Commercial and Financial Chronicle

## PUBLIC UTILITIES FORTNIGHTLY

ties of natural gas as compared with coal, while it naively stated that pipes would be laid as rapidly as economy would permit, to supply every customer "that can be secured." Another old-timer, American Water Works, listed its bonds in 1887.

The first electric company to file was Edison Electric Illuminating (part of Consolidated Edison) in 1889—the company claiming exclusive rights to the Edison patents in New York city.

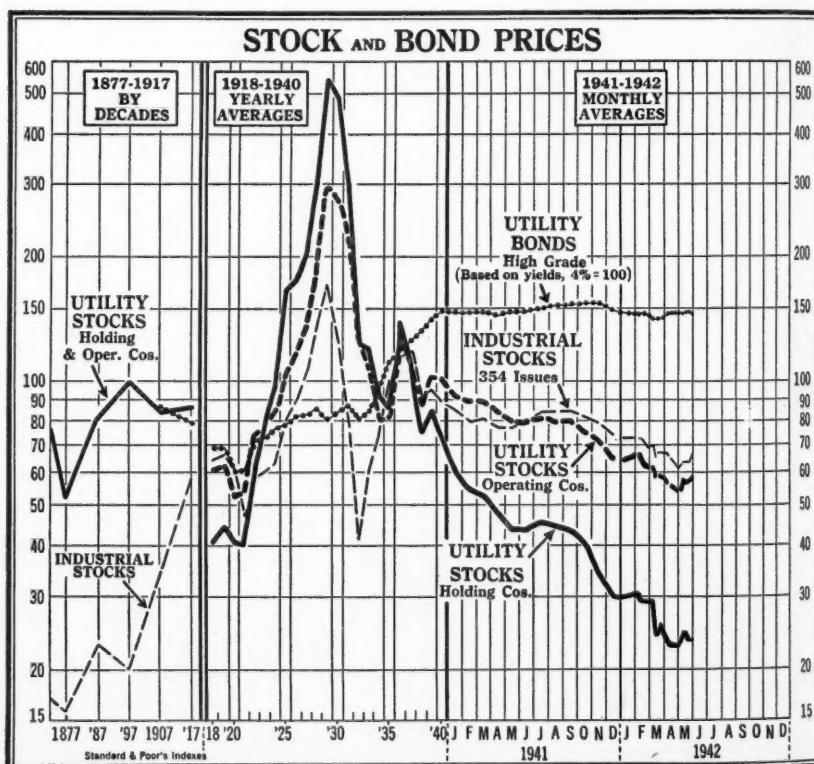
North American Company reached the Big Board in 1890 but at that time was interested only in the acquisition of railway securities. Trenton Gas & Electric, listed in 1889, became the nucleus of Public Service of New Jersey.

Apparently in the early days utilities did not hesitate to publish their troubles;

one of the companies (Wisconsin) said:

... our income has been reduced very considerably in wiring because we could not afford to buy the material and because of the establishment of a new firm competing with us and cutting rates regardless of profits. The new lighting company also offered to wire all customers for nothing. The disasters of the past year have been the commencement of a suit against the company for \$28,000 of our notes. By reason of this suit in which there was an attempt to put us into the hands of a receiver, we lost our credit. Under such circumstances I was obliged to default the interest on our bonds and a majority of our stockholders have commenced proceedings of foreclosure.

On the other hand, Consolidated Edison's predecessor in the early days was apparently able to "take down" about 50 per cent of gross to net, compared with some 20 per cent now.





## What Others Think

### Power Enough to Do the Job

SAMUEL Ferguson, chairman and president of the Hartford Electric Light Company, addressing the "Outlook for the Power Industry" forum at the round-table conference at the annual meeting of the National Industrial Conference Board, Inc., last month, said he saw no danger to the war effort due to lack of electric power. He stated:

On the other hand, to obviate material curtailment of civilian use in specific localities the industry must (as has been urged by the Federal Power Commission) devote itself to the development of the greatest flexibility so that facilities in one territory can be made available to others. This flexibility ought not to be confined to immediately adjacent territories but should cover distances at least the equivalent of New York to Chicago—and in any direction.

We have ample generator capacity installed throughout the country and the job of the industry is like the job of a general to make his reserves available at the point of attack.

Mr. Ferguson indicated the sense of responsibility that the industry feels and added that "the only field that diverts executive attention from important war work is in connection with proceedings instituted against many companies by the Securities and Exchange Commission." Even under war pressure the commission has felt obliged to initiate reforms in the industry. He said:

What is needed in this respect is a priority board which will allocate the managerial ability of the industry as between the preparation and the conduct of legal proceedings and the development and financing of adequate power supplies.

Frankly, I admit my inability to evaluate the necessity of such proceedings (by the SEC) as a help to the war effort but it is my personal belief that the other party to the proceedings is equally incapable.

Mr. Ferguson reviewed utility com-

pany plants and construction in the early thirties and touched upon the Federal Power Commission's estimates of power requirements. Stress was put on the load requirements which increased production requirements and different operating methods which could not have been foreseen. Mr. Ferguson stated "there will inevitably be shortages of power in certain territories due to special conditions" and cited the TVA as an example where civilian restriction was imposed.

He stated in part:

It is not generally realized that civilian use is so large that a restriction of only 10 per cent would produce as much primary power as the amount which it was estimated could be produced from the St. Lawrence development when that project was under discussion as an appropriate long-pull war measure.

Three factors which might result in civilian use of power, all radically different, were mentioned by Mr. Ferguson. He said:

First, a lack of generating capacity sufficient to carry the peak loads, which universally occur for one or possibly two hours a day in November and December. Such a condition might well exist in territory served exclusively or primarily by steam-driven generators. The territories served by the New York or Boston Edison companies are typical illustrations. Shortage here would be only during peak hours of work in the communities served or by curtailments during the limited hours of peak load. Ample capacity would exist throughout the remaining twenty-two hours.

The second cause of shortage is confined to territories exclusively or primarily served by water-driven generators.

Lack of fuel is the third cause for shortage.

This may be due either to a stoppage of fuel production or congestion in transportation. Such a situation faces New England today. Scarcity of oil has necessitated

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an almost complete shift to coal, and what is worse, coal transportation (due to the submarine situation and the Navy's need for large colliers) has largely shifted from water to rail thus throwing a tremendous burden on the railroads. The answer to such a problem lies in an all-out effort to store the maximum amount of coal during times of our maximum stream flow when coal burning is at a minimum.

Our situation in Hartford is illustrative of the steps taken to meet such conditions. Here in order to place in the yard rather than under the boilers all the incoming coal that can be handled—large amounts of power are being purchased daily from New York city and routed to Hartford via Al-

bany and Springfield over available transmission lines.

New England has storage capacity for about 1,300,000 tons of coal. If these storage yards are full as of December 1st, the territory will not suffer from the inevitable winter reduction of rail shipments due to the congestion of the gateways which will accompany winter storms.

The standard of service prevalent in the past has provided the industry with reserves whose utilization will add greatly to the supply of available power so that except in certain spots I do not look for a curtailment even of civilian use, and certainly for no restriction of any sort of the war effort.

## Dangers to Free Government Under War Stress

**F**RANK M. Wilkes, of Shreveport, Louisiana, president of the Southwestern Gas & Electric Company, said recently that while the United States will win the war there is danger that the people may lose their form of government. He said the tremendous growth of bureaucracy showed a decided trend toward socialism.

Speaking to delegates attending the thirty-first annual convention of the Arkansas Utilities Association, he reviewed the growth of the Rural Electrification Administration as an example of expanding Federal control. Mr. Wilkes said that since 1927 and continuing until the present, "we have seen one after another of the rights of appeal of the utility industry taken away from us, and one encroachment after another in the direction of taking over all of our business by the Federal authorities forced upon us."

Depicting competitive activity of the REA, he expressed his belief that since April, 1941, there had not been "a single new industry located in the United States, whether private or war projects, on which the REA has not made a competitive bid, although they were not equipped to furnish these services." He charged such action and pressure on other agencies in Washington "has become a blight on the war effort and been

responsible for delay from a few weeks to many months."

Construction of a power line from Oklahoma to the aluminum plant at Lake Catherine, Mr. Wilkes charged, was "an open defiance of the sovereign state of Arkansas," and declared that "we have a right to ask, for the duration of this emergency at least, that the Federal government in Washington order a halt of the encroachment on private business by forces which seek to socialize all industry."

**A**LBERT S. Johnson, Dallas, Texas, president of the Southern Union Gas system, citing the tremendous war production American industries have been able to put out, declared that this was proof that "American business had improved itself, and also was a convincing answer to long-haired brain trusters in Washington who had advocated that the government should take over all private enterprises in America because businessmen were not capable and efficient."

Ben E. Carter of Little Rock, former chairman of the Arkansas Department of Public Utilities, declared a shortage of man power and materials had developed in the United States. Referring to the Southwest power pool, Mr. Carter said "it must not be allowed to fail, and expressed belief that utility men can ac-

## WHAT OTHERS THINK



"SORRY, BUT A SUDDEN INDISPOSITION WILL PREVENT DR. GRIMSTED'S SCHEDULED TALK ON 'INDUSTRIAL ALCOHOL AND HOW TO USE IT'"

cept any necessary rationing and operate the pool far better than a stranger can run it for you. I do not believe this nation can survive if everything is to be run by Washington, and if Washington takes charge of your business, it will be your fault."

Speaking on the subject "Don't Get Scared," J. N. Heiskell, editor of the *Arkansas Gazette*, recalled some proposals and movements that were considered radical and revolutionary in the past but have now taken form in things that are accepted as matters of course. The 1892 Omaha platform of the Populists demanded a graduated income tax and the establishing of postal savings banks. The Communist Manifesto of

Karl Marx and Frederick Engels, which was published in 1848, demanded a heavy graduated income tax, free public schools for all children, and abolition of children's factory labor as it then existed. It was said further that we have today approached in greater or less degree some other things demanded by the Populists of fifty years ago and by the Communist Manifesto. Mr. Heiskell said in conclusion:

Even though we now accept without question some laws and institutions and government activities that were looked on as radical or revolutionary in the past, many of us are still bound to feel apprehension over some of the demands and movements of our day. But we cannot expect social and economic conditions to be fixed and

## PUBLIC UTILITIES FORTNIGHTLY

unchanging. We should simply waste our strength in resisting evolutionary changes that are inevitable. It is not a Communist political party in the United States that we should be most concerned about, or even Communist demonstrations of violence. We should be concerned to know whether there is discontent or dissatisfaction that might embrace Communism, not because it was Communism, but because it was thought to offer better conditions. If we are too blindly jealous of our own possessions we may lose them. We can hold them only if we share them. The measure in which we shall be suffered to retain our possessions will in the long run reflect the measure in which the average individual and the people in the mass are able to enjoy the goods and services with which this country is so peculiarly blessed. I believe the broadest foundation for secure and enduring democracy is in reasonable equality in the enjoyment of the necessities and comforts and luxuries of life. To that democracy our in-

dustrial machine has tremendously contributed by making goods and services available to the people as a whole with its marvelously efficient processes and highly developed economies. In this equalizing of the enjoyment of those things that make life easier and better, the electric power industry has pioneered and constantly progressed.

**C.** S. LYNCH, chairman of the operating committee of the Southwest power pool, explained in detail the formation of that pool and reviewed the controversy with the REA, which, he said, "became interested in the cause of defense, forsaking the purpose of their creation to serve farmers, and sought a contract to supply all of the requirements of the aluminum plant, even though they had neither lines nor plants at the time."

## Olds Sees Power Restriction Need

**D**ESPITE maximum pooling of power resources by interconnections of utility systems, severe restrictions on nonessential use of electricity will be necessary when the war program gets fully under way. So said Chairman Leland Olds of the Federal Power Commission in an address entitled "Public Utilities and the National Defense Program," delivered at Charlotte, North Carolina, on May 14th before the annual state industrial safety conference.

Chairman Olds said that when war production reaches its maximum power pooling, such as undertaken in the Tennessee valley area last year, will have to be attempted in so far as possible on a country-wide basis. Even then, he said, curtailment of nonessential uses of power will be necessary. "Such curtailment is bound to hit certain areas more than others, because of limitations on planned location of new war industries and the technical obstacles to anything approaching a nation-wide pooling of power," he declared.

Chairman Olds said that war expenditures of about \$70,000,000,000 a year would require the generation of electric

energy at an annual rate of 300,000,000,000 kilowatt hours, including power for civilians as well as war requirements. The maximum use of available hydro facilities can be counted upon to provide only about 61,000,000,000 kilowatt hours of this total, he said, leaving 192,000,000,000 kilowatt hours to be provided by steam stations producing for public use, after allowing 45,000,000,000 kilowatt hours to be produced by power installations in industrial plants and about 2,000,000,000 of imports.

**F**OR the country's steam stations to produce any such total in 1943, Mr. Olds declared, would require an average of 5,430 kilowatt hours per kilowatt of installed capacity, as compared with an average output of only 3,920 kilowatt hours per kilowatt of capacity in 1941. In other words, he said, it would require an output from all the steam plants of the country equivalent to 62 per cent of all the hours in a year, as compared with 45 per cent in 1941. Such a high average use of steam capacity is far in excess of anything ever achieved in this country.

The attainment of such an objective

## WHAT OTHERS THINK

may well be found to require a country-wide integration of power systems which does not exist and could not exist in the present state of the art of power transmission, Mr. Olds said. Even to approximate it will require a degree of regional interconnection and coordination of electric generating facilities which has not been attempted heretofore, except in meeting the power shortage in the Southeast in 1941.

Mr. Olds said:

In other words, to meet the requirements of the war program, in so far as power is concerned, we have all got to pull together to assure the maximum possible use of all generating stations. No established ways of conducting the power business, or rights or subdivisions of ownership, must stand in the way of such power mobilization.

Orders for additional generating capacity for major systems, including both public and private systems and on the basis of the latest information as to installation dates, will have resulted in a net increase of 13,620,000 kilowatts in the five years 1940 to 1944, inclusive, Mr. Olds said. This includes 3,307,000 kilowatts to be installed this year, 3,402,000 kilowatts in 1943, and 2,886,000 already on order for installation in 1944.

Chairman Olds expressed confidence in the resourcefulness and effectiveness of the American power industry under

the prevailing critical circumstances:

. . . the country's power systems are going to make good on their obligation to get every kilowatt hour possible out of all generating facilities and to deliver it where it will contribute most to providing our soldiers and sailors with the greatest possible supplies of planes and ships and tanks and guns and ammunition.

THE speaker stated that the extent to which curtailment can assist in meeting enormous power requirements of the war program remains to be tested. He believed that the combined effect of "wartime," supplemented by shifting and re-aligning industrial use, would reduce the evening peaks to the levels of the morning load. However, this would only mean a saving of 1,500,000 kilowatts' capacity in excess of 800,000 kilowatts gained by advancing the clock. Chairman Olds concluded:

The country's utilities, public and private, are carrying a tremendous war responsibility. They are making a tremendous contribution to assuring the possibility of complete mobilization of production for victory. And, in the co-operative effort in this field as in many other subdivisions of the country's economic life, by winning a war of production we may be winning not only a world in which freedom of speech, freedom of religion, and freedom from fear will be secure but also a better understanding of how to achieve a world blessed by freedom from want. That indeed would be a victory for democracy.

## Professor Barnes on Utility Regulation

FOR more than a decade Irston R. Barnes has taught public utility regulation to undergraduates majoring in economics at Yale University. During that period Professor Barnes has also distinguished himself through his writings (some of which have appeared in the pages of this publication) as a critical analyst of public utility regulation.

He was one of the first teachers of this relatively new subject to appreciate the advantage of teaching public utility regulation by the "case book" method, rather than by the conventional lecture method. The case book system had al-

ready made considerable strides among the law school teachers, but its acceptance in the field of economics was a bit slow. After eight years' experience, Professor Barnes developed, as a by-product, a case book of his own (reviewed in PUBLIC UTILITIES FORTNIGHTLY, May 16, 1939).

Now he has brought out a companion volume in the form of a textbook to supplement "the more difficult and rewarding case technique." If this background is understood, the reader of the latest Barnes volume will not be so likely to look askance at some of the author's edi-

## PUBLIC UTILITIES FORTNIGHTLY

torializing in his presentation and analysis of case materials in case form. In other words, Professor Barnes, having already written one book in which the court and commission cases on public utility regulation are allowed to speak for themselves, now writes another book in which he gives us some idea of what he thinks about such cases. The fact that he often ends up with minority reports and dissenting opinions to support his indicated preference does not bother the author. He says what he thinks.

**I**N all fairness, however, it should be noted that Professor Barnes is no blind partisan of any of the various controversies of public utility regulation. He is as enthusiastic about presenting arguments on both sides as he is honest in making his own choice.

"The Economics of Public Utility Regulation" shapes up as one of the most comprehensive textbooks on the subject published in the last decade. This reviewer was unable to find a single key case omitted or a single important issue or factor of regulation overlooked. It's all there. It is inevitably a matter of individual judgment whether some items have been slighted or others overdone. On the whole, however, it is hard to imagine anyone seriously quarreling with Professor Barnes' product on the score of lack of research or inadequacy of presentation.

In short, some readers may not care for the way Professor Barnes runs the bases but it cannot be doubted that he has touched them all. The vast amount of case material and the exhaustive bibliographic references which have been assembled cannot fail to impress the reader with the scholarship of the author.

**T**HE organization of the book proceeds in a more or less conventional way. There is an opening chapter on the "public utility concept." The author reviews the various key cases which define (or, perhaps more properly, fail to define) the status of a public utility. After analyzing the various theories of the

utility status, Professor Barnes arrives at the forthright but undeniable conclusion that as far as legality of utility regulation is concerned, a public utility is what the Supreme Court says it is. And even then decisions of the highest court carry no time guaranty with them.

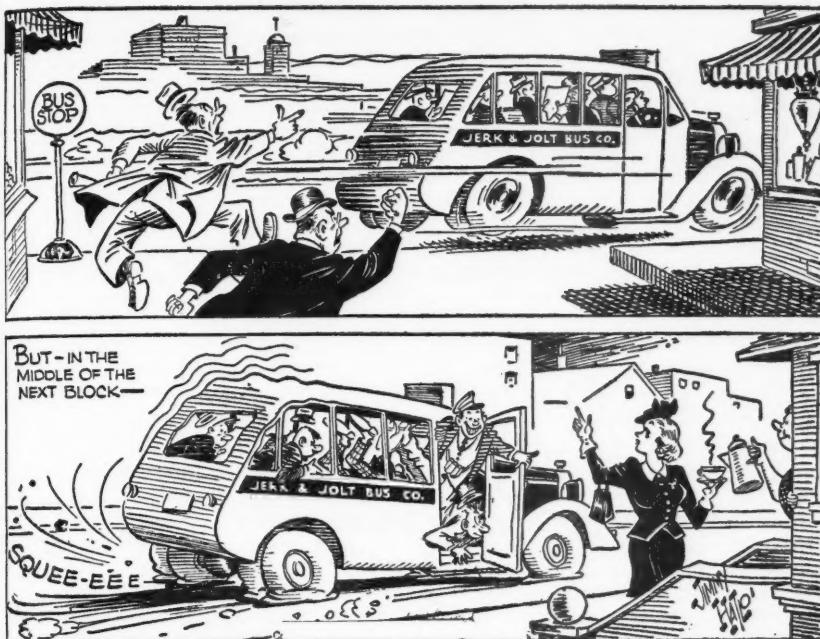
The ebb and flow of public interest as to the need for restrictions in various fields of commercial enterprise make it impossible to lay down definite criteria for labeling industries subject to regulation. The recent OPA extension of emergency price control to virtually all retail commodities, and the rent control statutes (which were upheld during World War I, invalidated during the post-war years, and which have now come back during World War II) are current examples of the proposition that when the people and the people's government feel the need to regulate private business, they will do so—all legal theorizing to the contrary. Professor Barnes sums up this evolution of regulatory control as a 3-phase development of agitation, legislation, and interpretation.

**C**HAPTERS II and III are devoted to a historical discussion of the economic evolution of the various principal utility industries. This includes a discussion of "economic characteristics." Incidentally, folks of the electric utility industry will be interested to note the author's conclusion (page 51) as to what the approximate average residential rate per kilowatt hour should be. He says "it appears that a residential consumer using 600 kilowatt hours a year should pay no more than 3.5 cents per kilowatt hour; generating costs should be no more than 8 mills per kilowatt hour; distribution cost should not exceed 2.5 cents; and 2 mills would be available for return on the transmission investment necessary, such as substations and transformers."

Chapters IV and V take up corporate structure of the utility industry, including the holding company, and also examine the basis for the jurisdictional conflict between Federal and state authorities in the matter of regulation.

Chapter VI is a thorough analysis of

## WHAT OTHERS THINK



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### THAT'S WHERE THE RUBBER GOES

the practical extent of commission regulation today and brings up to date (apparently as of the end of 1941) a number of important earlier studies along this line, including the Bonbright chart (1930) and the FPC survey of state commission regulation (1940). This chapter also goes into the matter of judicial review, of which Professor Barnes apparently feels there has been entirely too much.

At any rate, the following sentence, apparently written before the recent decision of the Supreme Court in the Natural Gas Pipeline Case, 42 PUR (NS) 129, now seems quite prophetic in the light of that decision:

Recent changes in the personnel of the Supreme Court make it pertinent to question whether there impends a change in the attitude of the Supreme Court toward the propriety of the review by the Federal courts of rates established by state public service commissions.

**C**HAPTER VII deals with franchises. Chapter VIII takes in accounting and regulation including annual depreciation. Chapters IX to XVIII, inclusive, constitute the heart of the book and take in the various phases of the utility rate-fixing procedure. If this reviewer were required to strike a critical note, he would address it chiefly to this section of the volume.

Professor Barnes is a valiant advocate of original cost as against reproduction cost for determining the rate base. That is his privilege, of course. But the way he keeps plowing and replowing this much-harrowed ground is tiresome, even when one agrees with the author, and positively annoying when one does not. Unfortunately, the manuscript was apparently sent to the printer before the Supreme Court had handed down its decision in the Natural Gas Pipeline Case. Otherwise, Barnes might have spared

## PUBLIC UTILITIES FORTNIGHTLY

himself and his readers much dead horse whipping.

One might also question the sharp tone used by the author in his repetitious dissertation on the virtues of original cost theory. Where the Supreme Court decided cases in a way which did not please the author, as in *United Railways v. West*, he finds that the majority opinion had a "disturbing effect upon the regulation of utility charges," and that the minority opinion "constituted a vigorous protest." A little later on when the court decided the Los Angeles Case more to the author's liking (page 394), he tells us that "common sense compelled the court to uphold the California commission."

**I**t is difficult to understand how one so obviously well informed on his subject could make such a naïve appraisal of what the majority opinion held in *Chesapeake & Potomac Telephone Company v. West* (page 396). Barnes seems to be under the impression that the court entirely outlawed the use of commodity price indicia in that case. Whereupon he informs us, *ex cathedra*, that "the impropriety of the court's action in overthrowing the action of the [Maryland] commission was clearly presented to the members of the court by Mr. Justice Stone's dissenting opinion."

Another example of the author's irritating habit of making slighting reference to opinions which he does not share, but which have been held by other people who are not quite *non compos mentis*, is to be found on page 401 where he states "one of the most persistent sources of confused thinking relative to the principles of judicial review of rate regulation is to be found in the ubiquitous condemnation analogy."

It seems to this reviewer that the author makes out a sufficiently strong, if overlong, case for his theory without name calling and gratuitous digs. As a matter of fact, in weighing the arguments pro and con on the hackneyed Original Cost *versus* Reproduction Cost controversy, Professor Barnes passes quite gingerly over the prospect of mone-

tary inflation. Yet it is by no means certain, in view of the skyrocketing public debt, that the United States shall emerge from this war with a dollar value in the 1950's that will continue to approximate the dollar value of the 1940's or 1930's.

Within the last quarter decade the French franc has fallen in value from 25 cents to less than 2 cents and the fate of the German mark in 1924 is too tragic to recall. To compel utility rates to be based on original cost values during any such runaway inflation or even a relatively mild version of it would not only be unfair, it would be silly. Utility services would simply collapse if it were attempted and neither court decisions nor Professor Barnes could avert such harsh consequences.

**C**HAPTER XV on the rate of return is particularly good in that it shows that the author is sensitive to the failure of regulatory authorities to appreciate the importance of the rate of return as distinguished from rate base procedure. This reviewer was a little disappointed by the author's curt dismissal of the virtues of the Washington plan of sliding-scale, profit-sharing, which he calls by the somewhat unfamiliar name of "service at cost" plan (585). This is especially puzzling in that the Modification of the Prudent Investment Program (page 590), a rather complicated scheme which seems to have Professor Barnes' special benediction, bears at least a partial resemblance to the undeniably successful District of Columbia experiment in quasi automatic regulation.

The concluding chapters round out other phases of regulation (security issues, obligations of service, and the special work of the Federal commissions) and also cover such miscellaneous leftovers as public relations and propaganda and public ownership. The chapter on propaganda is largely a rehash of the Federal Trade Commission investigation dealing with events which are now mostly twenty years old or more. In view of current events and the amount of water that has passed over the dam since the feverish debate on the Walsh resolution,

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much of this discussion might strike the present-day reader as being about as timely and vital as a dissertation on the Hall-Mills murder mystery, or the kidnapping of Charlie Ross.

However, the facts, for what they are worth, are fairly presented and, as stated above, it is hardly the function of a reviewer to quarrel with the way another man wants to organize his book simply because he might have done it differently. On the balance, Professor Barnes has

turned out a creditable work which should prove of value not only to teachers but also as a quick and handy reference manual for the practicing economist, engineer, or other specialist whose work brings him into closer contact with regulatory procedure.

—F. X. W.

THE ECONOMICS OF PUBLIC UTILITY REGULATION. By Irston R. Barnes. F. S. Crofts & Co., 101 Fifth Avenue, New York, N. Y. Pp. xxiv, 952. Price \$5. May 1, 1942.

## Notes on Recent Publications

BIBLIOGRAPHY OF ARTICLES AND REPORTS ON THE INDUSTRIAL AND COMMERCIAL USES OF GAS. (Classified and arranged by magazines alphabetically, January 1, 1941, to January 1, 1942.) By C. George Segeler. American Gas Association, 420 Lexington Avenue, New York, N. Y.

Approximately 225 titles are included in the 1941 bibliography as representative of the more significant applications of industrial and commercial gas. The bibliography is based on publications which are easy to obtain. In the event that a specific item cannot be secured locally, the AGA maintains a complete file, and photostatic copies of any articles may be obtained at a cost of 25 cents per page. Titles have been selected so as to bring together references which will be of real assistance to gas companies. This bibliography is the eleventh issued by the AGA on industrial and commercial uses.

DIRECTORY OF ELECTRIC UTILITIES IN THE UNITED STATES. Second edition. Federal Power Commission, Washington, D. C. Price \$2. Pp. 1,050. In ordering, refer to FPC S-19.

This book, which contains data on 4,457 electric utilities serving 21,586 United States communities, was compiled by the Federal Power Commission in collaboration with the Work Projects Administration from data furnished by the utilities. The new version makes available a complete and authoritative list of all publicly and privately owned electric utilities in the country, as well as industrial plants which sell energy for ultimate public consumption, together with pertinent operating and statistical data. The new volume also contains a detailed index of information available in the commission's various statistical publications.

DIVESTMENT OF UTILITY PROPERTIES TO PUBLIC AND NONPROFIT BODIES. By Lois G. Forer.

42 *Columbia Law Review* 232. February, 1942.

GEOGRAPHIC INTEGRATION UNDER § 11(b)(1) OF THE PUBLIC UTILITY HOLDING COMPANY ACT. 36 *Illinois Law Review* 662. February, 1942.

NEW PRINCIPLES IN URBAN TRANSPORTATION ECONOMY. The transportation problem in the city of Buenos Aires. Second revised edition. Republica Argentina, Ministerio Del Interior, Transport Control Committee of Buenos Aires.

PUBLIC WORKS ENGINEERS' YEARBOOK. American Public Works Association, Chicago, Ill. 1942. Pp. 381. Price \$3.50.

REGULATION OF PIPE LINES AS COMMON CARRIERS. By William Beard. Columbia University Press, New York, N. Y. 1941. Pp. x, 184. Price \$2.

REGULATION OF RADIO BROADCASTING: COMPETITIVE ENTERPRISE OR PUBLIC UTILITY? By Stanley M. Brown and John Wesley Reed. 27 *Cornell Law Quarterly* 249. February, 1942.

SOCIAL PERFORMANCE OF PUBLIC UTILITIES: EFFECTS OF MONOPOLY AND COMPETITION. By Leon Jourolmon, Jr. 17 *Tennessee Law Review* 308. April, 1942.

TELEVISION TODAY AND TOMORROW. By Lee De Forest. Dial Press, Inc., New York, N. Y. 1942. Price \$3.75.

UNCLE SAM WANTS IT TO LAST. The Care and Use of Gas Equipment in the Kitchen. Interim Bulletin No. 67. Published by Residential Section, Home Service Committee, American Gas Association, New York, N. Y. Price 10 cents.



### War Risk Insurance

**W**AR damage insurance will be handled by private fire insurance companies, as fiduciary agents of the War Damage Corporation. Applications for policies should be made as soon as the necessary forms are available—about June 20th. The blanket protection now in force will be void after June 30th, it was reported.

Public utilities, whether publicly or privately owned, will pay a rate of 30 cents per \$100, with a 50 per cent co-insurance clause. This rate (applying also to manufacturing plants of ordinary—that is, not fire resistant—construction) is the highest in the schedule. Dwellings will be insured for 10 cents per \$100—co-insurance not required.

This insurance generally covers losses due to enemy action or resisting the same. It does not cover sabotage, capture, seizure, pillage, looting, use and occupancy, rental value, and other indirect loss or consequential damage. Excluded also are blackout losses not due to enemy action.

### Electric Utility Labor Stabilized

**A** "CRITICAL" list of skilled electric utility workers was issued early in June by the Selective Service system. Power was designated as an essential war industry. This "directive" will serve as a guide for local draft boards in classifying registrants for military service.

Applications for deferment, however, must still be supported by evidence that an employee filling a "critical" position cannot readily be replaced.

Deferred classifications will still be good for only six months—renewable for like periods. There is some agitation for permanent occupational deferment of highly skilled workers—to avoid recurrent uncertainty as to a worker's status.

Utilities will also be helped to maintain competent working forces by the policy of the War Manpower Commission to "freeze" essential workers in critical war industries to their present jobs. This policy will tend to stop "labor pirating." The utilities, however, have not suffered seriously from this practice because of high wage levels, pension and retirement benefits, and other stabilizing factors.

## The March of Events

### FPC Allows Optional Wholesale Schedules

**T**HE Federal Power Commission last month announced its order allowing optional wholesale rate schedules filed by the Northern Natural Gas Company to take effect retroactively as of April 4, 1942, prior to the date of formal filing. The optional schedules constitute offers of reductions in the natural gas bills of approximately twenty-four distributors purchasing gas from the Northern Company for resale in the states of Iowa, Kansas, Minnesota, Nebraska, and South Dakota amounting to approximately \$320,000 annually, based on sales for the year 1941.

Principal reductions were offered to Central Electric & Telephone Company (\$27,939), Iowa-Nebraska Light & Power Company (\$58,861), Peoples Natural Gas Company (\$69,511), and Minneapolis Gas Light Company (\$50,405). Additional savings totaling more than \$300,000 were said to be possible for nineteen distributors if they agreed to operate and maintain existing gas manufacturing plants not being operated at present.

### FPC to Renew Inquiry

**I**NVESTIGATION of wholesale rates charged by the Natural Gas Pipeline Company of America and the Texoma Natural Gas Company will be resumed July 20th in Chicago, the Federal Power Commission announced recently.

The U. S. Supreme Court last March upheld an interim rate order of the commission reducing the pipe-line company's wholesale rates by \$3,750,000 a year.

### Rail-bus Rationing Studied

**T**HE government took the first step on May 22nd toward rationing seats on railroads and bus lines. The Office of Defense Transportation began a week's check-up on travel originating at 100 key centers throughout the country. New York, Boston, Chicago, Los Angeles, Detroit, Cleveland, Cincinnati, and Philadelphia were the larger cities in which the survey was conducted.

A complete record would be kept of all railroad and bus tickets sold in these cities during the week, it was announced, while field workers of the Work Projects Administration

## THE MARCH OF EVENTS

expected to question more than 20,000 travelers concerning the purpose of the trip, its mileage and destination, each traveler's employment, and the frequency with which he travels.

Joseph B. Eastman, head of the ODT, said the data thus compiled would be used by ODT as an aid to adjusting passenger travel requirements to the available supply of passenger transportation facilities and services.

Meanwhile, in a move to eliminate duplication by the four bus lines operating between New York and Washington, the ODT issued an order effective June 3rd, directing them to pool services, stagger schedules, and permit the interchange of tickets.

Officials of ODT estimated the order would reduce total scheduled mileage of the affected companies by 25 per cent, or by about 5,000 miles a day. The plan, it was said, had been approved by the Justice Department.

Companies affected by the order were Pennsylvania Greyhound Lines, Inc.; Safeway Trails, Inc.; Eastern Trails, Inc.; and the Quaker City Bus Company. All except Quaker City operate over the entire distance between Washington and New York.

It was further ordered, subject to the approval of the appropriate regulatory authorities, that wherever a carrier holds exclusive operating rights in any of the states involved, those privileges shall be made available to other carriers operating on the same routes.

## WPB Restricts Purchases

THE War Production Board last month prohibited open market purchasing, by electric utility firms, of materials needed in extending power service to housing projects. Henceforth, WPB announced, the utilities must draw on their excess stocks for such supplies, purchasing from other utility companies if necessary.

Further, WPB directed, no new housing project may be started unless plans for extension of all utility services—including gas and water as well as electricity—have first been approved by the government.

A power company also must obtain WPB approval for extensions of more than 250 feet, with such approval merely allowing the company to use its own materials or those bought from another utility.

Making further reductions in the quantities of critical materials used in making electric, gas, and water extensions to housing projects, WPB also established new standards applying to houses on which construction began after April 22nd. For example, only 30 pounds of copper wire may be used for each dwelling unit instead of the 60 pounds previously allowed, and the distribution transformer capacity may be only 200 watts instead of 300. The maximum length of gas and water mains, in each dwelling unit, was reduced from 60 to 50 feet.

## California

### Opening Briefs Filed

CONCURRENT opening briefs were filed with the state railroad commission last month by the Pacific Gas and Electric Company and the Sacramento Municipal Utility District on the latter's petition to the commission to fix compensation to be paid the company for its electric distribution system.

Closing briefs are due June 25th and oral argument, June 29th and 30th. The company contends \$12,500,000 to be the market value of property and asks \$5,802,961 for severance damages. The district holds \$9,400,000 to be value of properties and admits \$563,000 severance damages.

### Railway Consolidation OK'd

THE public utilities commission of San Francisco recently recommended consolidation of the Municipal and Market Street railways. It requested the board of supervisors to enact an ordinance authorizing the commission to enter into a lease-purchase of the private line, on a 7-year instalment basis at a total price of \$11,535,000, including all interest, insurance, and capital and other costs.

The ordinance also would contain the pro-

viso that the city can buy the system outright for \$8,350,000 any time within the period, with the annual instalments applying to reduce the total.

After the authority to enter into the deal is granted, it then remains for both boards to approve the contract in detail.

### Asks Financial Help

TWO appeals to Washington, D. C., for authority to enforce staggering of hours and construction of a new belt line railroad in the East Bay area to relieve the defense transportation tangle, were revealed last month.

The Oakland transportation committee recently appointed by Oakland Mayor John F. Slavich met with Ward Hall, chief engineer of the state railroad commission, and learned for the first time that the commission had applied to Washington for financial help and authority in building a belt line railroad costing \$1,700,000 to connect San Leandro and Richmond.

At the same time, it was revealed that the transportation committee's recommendations that defense industries, stores, and schools stagger their hours so as to relieve transportation facilities were not being enforced because the committee lacked the power.

## PUBLIC UTILITIES FORTNIGHTLY

To Federal Transportation Coöordinator Joseph B. Eastman went a request for authority to enforce the committee's recommendations.

Last month the state railroad commission also voted to submit the entire statewide defense transportation problem to Eastman for his approval of a plan worked out by the commission. Commissioner Franck R. Havener said the plan, as it then stood, would require initial expenditure of more than \$12,000,000.

### City Buys PG&E Power

UTILITIES Manager Cahill of San Francisco last month announced an agreement had been reached for the city's purchase of \$1,463,000 worth of power annually from the Pacific Gas and Electric Company to fulfill the Defense Plant Corporation contract for power

to operate a \$12,000,000 aluminum plant in Stanislaus county.

To operate the plant, construction of which was to start soon, 100,000 kilowatts of power would be needed. The total output of the Hetch Hetchy Moccasin creek generating plant is 83,000 kilowatts. The agreement announced by Cahill would supply the additional power necessary.

The agreement was forwarded to Secretary of the Interior Harold Ickes for his approval.

The city's sale of power to the PG&E at a return of \$2,400,000 a year terminates June 30th, following a Supreme Court decision that sale is in violation of terms of the Raker Act. The same price paid by the PG&E—\$4.878 per kilowatt hour—will be paid by the company to the city for the 17,000 kilowatts needed by the city in its deal with the Defense Plant Corporation.

## Colorado

### Rate Funds Impounded

THE sum of \$144,171, representing the first monthly quota of funds to be impounded at the direction of the Federal Circuit Court in litigation over the proposed reduction of the "gate" price on natural gas in Colorado and Wyoming, was deposited in the First National bank of Denver last month by the Colorado Interstate Gas Company.

The company acted promptly in conformity with a court order for posting of funds equal to the approximate amount of the rate reduction, pending outcome of the pipe-line companies' court fight to annul a recent order of the Federal Power Commission, which directed the Colorado Interstate Company to cut its rate by an amount aggregating \$2,065,000 a year.

The Canadian River Gas Company and the Colorado-Wyoming Gas Company were ordered to reduce their charges by \$561,000 and \$119,000 a year. It was understood the Colorado Interstate Company had assumed the obligation of the Canadian River Company in posting funds, and the Colorado-Wyoming Company would start making deposits June 15th.

The money impounded will be held in a special account until the FPC's order is upheld or reversed by the court. If the order is upheld, the funds will be apportioned to distrib-

uting companies and from them to consumers. If it is reversed, the money will return to the pipe-line companies.

### Tramway Plans Vetoed

PLANS of the Denver Tramway Company to transform its No. 50 street car line into a trolley coach line next winter have been vetoed by the Office of Defense Transportation in Washington, Howard S. Robertson, company president, announced recently.

"Because of the rubber shortage, the ODT, headed by Joseph B. Eastman, has adopted a policy of refusing all requests to change rail lines into bus or trolley coach lines until the end of the war," Robertson said.

In asking for permission to transform the line, the company pointed out it already had on hand the poles and trolley wire necessary to make the change and had ordered fifteen new trolley coaches, ten of which were to be delivered in October and five in January or February, 1943.

Deliveries of completed trolley cars and commercial motor busses, and of bodies designed to be mounted upon chassis for either, were placed under the most rigid form of allocation control by the provisions of a War Production Board order announced May 22nd by V. L. Board, Denver district priorities manager.

## Connecticut

### FPC Orders Compliance

THE Federal Power Commission on May 26th announced its order and opinion (No.

JUNE 18, 1942

75) directing the Connecticut Light & Power Company to comply with requirements of the Uniform System of Accounts, and to file within ninety days the accounting and original cost

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studies called for under electric plant instruction 2-D of the system of accounts and a supplementary accounting order issued by the commission on May 11, 1937. The recent decision construed transmission facilities, for the first time, to include not merely the lines but all devices necessary to accomplish transmission of the electric energy, and is of importance as affecting the liability of electric utility companies throughout the country to comply with regulations under the Federal Power Act of 1935.

In commenting on the testimony of "expert" witnesses introduced by the company, the opinion stated that the commission "has admitted such testimony at great length, not only in an excess of 'due process' caution, but also to give abundant opportunity for testing these contentions. Patience may, however, cease to be commendable. The courts will not condone the unrestrained augmentation of the record which they must consider. We think that the results in this case demonstrate that it may be necessary hereafter to apply reasonable limits to the testimony of so-called 'experts.'"

Denying the company's contention that the jurisdiction of the commission could not be established because the transmission of electric energy from Massachusetts to Connecticut could not be proved beyond any possible doubt—could not be "uniquely demonstrated and verified by physically observable facts"—the opinion said that commission staff engineers "traced" the flow of electric energy from Massachusetts to three points of interconnection with the company's facilities in Connecticut and that "in so doing they were using meter readings at each point for the same purpose for which such readings are commonly used

in the industry, i. e., to show direction and amount of flow of energy. Their reliability for those purposes in the commercial transactions of the industry is a sufficient guaranty of their reliability and appropriateness for the same purposes in the regulation of the industry."

### New Rates Submitted

THE Connecticut Light & Power Company recently filed with the state public utilities commission a withdrawal of existing gas and electric light rate schedules and submitted new rates with fuel adjustment clauses for approximately 100 cities and towns. The company asked that the adjusted rates become effective June 27th.

The new rates indicated adjustments and prices charged for gas and electricity because of the increased cost of production. Municipalities affected include Willimantic and Norwalk. Robert H. Knowlton, executive vice president, stated the basic rate would remain unchanged but a new schedule had been built up on a so-called sliding-scale fuel clause, which permits adjustment of rates up or down, following trends in fuel prices.

The principle is being applied to certain classifications of both electric and gas users—the gas customers in general and the power users of the commercial group. Three steps are to be taken: withdrawal or cancellation of obsolete rates not now applicable to new customers; withdrawal or refiling of rates to include a new or revised fuel clause; and/or file new rates with a fuel clause.

The state commission ordered a public hearing to be held June 27th.

## Florida

### Power Crisis Proclaimed

THE Federal Power Commission declared a power emergency in northeastern Florida last month and ordered immediate action to bolster the supply for war purposes.

Acting, it said, with the approval of the War Production Board, the commission ordered temporary interconnections of major facilities

in the area, particularly in Alachua, Bradford, Clay, Duval, Putnam, and Union counties.

Two electric utilities, the Florida Power & Light Company and the Clay Electric Cooperative Association, Inc., and the cities of Jacksonville and Gainesville were directed to proceed at once to construct and install for the emergency such transmission facilities as needed to assure adequate interchange of current.

## Georgia

### Rate Reduction Delayed

TEMPORARY postponement of lower electric rates for Georgia Power Company customers was ordered recently by the state public service commission, Chairman Walter R. McDonald announced. The present schedule will continue "pending further study."

McDonald explained that under a 1939 commission order a promotional rate, giving consumers a chance to earn a lower rate by increased usage of electricity, was to become the regular, base rate on June 1st this year.

Asserting that so far only 58 per cent of the company's customers have earned the reduced rate, the commission said that extension of this

## PUBLIC UTILITIES FORTNIGHTLY

promotion schedule now to all the other customers would place "an abnormal burden" on the utility and "one which its present revenues do not appear to justify."

The commission pointed out that higher op-

erating costs and taxes cut heavily into the company's earnings last year and added that, because of war-time limitations on sales and construction, the company could not increase sales sufficiently to offset a new burden.

## Illinois

### Gas Cuts Authorized

THE state commerce commission on May 27th authorized gas rate reductions totaling \$1,063,000 a year for 200,000 users in Chicago suburbs. The rate cuts were offered the previous week by three utility companies as a result of a reduction in the charges they pay pipe-line companies for natural gas. They are retroactive to April 1st.

The utilities and the amounts of the annual reductions are: Public Service Company of

Northern Illinois, \$736,000; Western United Gas & Electric Company, \$296,000; and Illinois Northern Utilities Company, \$31,000.

The commission deferred action on an offer by Peoples Gas Light & Coke Company, serving 800,000 gas users in Chicago, to reduce its yearly rates by \$1,200,000, which is half the slash in its pipe-line charges. The three other companies passed along the full amount of the pipe-line rate cut to consumers. The average bill will be 6 to 7 per cent lower under the new rates.

## Indiana

### Commission Eases Rules

THE state public service commission last month moved to set aside truck and bus regulations governing routes and services as a step for greater efficiency in war transportation. An order written by the commission permits trucks and busses to deviate five miles from their present routes; allows interchange of trailers and semitrailers by trucking companies; authorizes transportation of any class of property over present routes serving intermediate points; and gives bus or truck companies an opportunity to extend routes for emergency purposes without formal applications and hearings.

The order, effective June 1st, is to terminate December 31, 1944, unless the commission acts otherwise. Members said the order would cut through numerous regulations to permit truck and bus operators to cooperate more closely with Office of Defense Transportation regulations, particularly the recent rule which provides trucks must be loaded to at least 75 per cent capacity on return trips.

To avail themselves of the removal of restrictions, however, the operators must apply to the commission for suspension of the regulations, but there are to be no advertised or formal hearings. Suspension will be ordered on presentation of affidavits.

### Permanent Order Sought

HEARINGS on the Public Service Company's petition for a temporary injunction restraining the city of Lebanon from taking over the electric distribution system took a new turn recently when Public Service attorneys

requested a permanent injunction instead. Such a change in pleas was approved by the city's attorneys but this did not alter the basis of the suit, it was said.

The Public Service Company's reply contended that the city has no right to take over the electric distribution system because the voters authorized city acquisition of the property at a valuation of not more than \$150,000, rather than its present valuation of \$210,000.

The city contended, however, that it already had title to the system and the only unsettled question concerned the value of additions and betterments.

Another complication in the city's 5-year-old effort to acquire the electric distribution system confronted the city council on May 28th with the filing of petitions bearing 222 citizens' signatures, demanding a second election on the ground that the property would cost twice as much or more than taxpayers had been promised when they voted on the proposition in 1937. The petitions said:

"Five years ago the city told us that electric and tax rates would be reduced if the city acquired the electric distribution system. We were told the property would cost the city nothing, the price of value of about \$140,000 to be met by revenue bonds. Not only have tax levies been lowered, but the utility corporation has reduced electric rates and in addition brought in natural gas. Despite the original promises, some tax money has been used in lawsuits and the value of the system is now on court record as being \$210,000. The city has issued \$285,000 in revenue bonds, and the end is not yet in sight. We believe the voters should have the right to express themselves on what is now an entirely new proposition."

## THE MARCH OF EVENTS

### Iowa

#### ODT Authorizes Busses

**J**OSEPH B. Eastman, director of the Office of Defense Transportation, last month signed an order authorizing the Des Moines Railway Company to use electric busses on the city's Ingersoll-West Des Moines line.

The order was the first issued by ODT authorizing an exception to general order No. 2, issued April 1st, forbidding the addition of bus lines to present street railway transportation services.

In the order authorizing an exception in the case of the Des Moines line, Director Eastman

explained the exception by saying the street railway company already had installed overhead trolleys, had 17 coaches for service on the line already delivered, and that the 10 street cars to be released by the electric bus line were needed elsewhere in the city.

Eastman also commented on the showing made that the ordinary street railway equipment on the Ingersoll-West Des Moines line was in a dilapidated condition.

The Office of Defense Transportation order, Eastman stated, was subject to approval of state and local regulating authorities. Otherwise, it was effective immediately.

### Kentucky

#### Deals Unaffected by TVA Act

**M**UNICIPAL negotiations already started to purchase electric light plants will not be affected by the TVA enabling act which became a law in June, the court of appeals declared on May 26th in a Murray case.

The opinion, considered by the whole court without announced dissent, was given in a suit brought by L. L. Dunn, a Murray taxpayer, to determine whether proceedings started under an agreement made last April 13th would have to be started over again.

Judge W. H. Rees' opinion, which upheld Calloway Circuit Judge Ira D. Smith, said the TVA bill "was not intended to affect contracts made and proceedings instituted for the purchase of electric plants by cities prior to its effective date."

The court added, however, that in case a referendum was ordered under present law the proceedings would have to be halted until after a vote on the question at the coming November election.

Electric power from the Tennessee Valley Authority would become available to Murray on June 8th, under terms of an agreement signed on May 28th by the city and the Federal agency.

In the same transaction, TVA agreed to furnish electric power to the other four Kentucky municipalities and three rural electric cooperatives, but Murray was the first to announce a definite date for starting the new service.

Mayor George Hart said the agreement provided for a reduction in consumer rates of approximately 20 per cent. He said TVA officials told him that a reduction of about 50 per cent in rates would be possible when the authority's Kentucky dam at Gilbertsville, Kentucky, is completed.

Petitions bearing the names of 208 "legally qualified voters" of Bowling Green were filed in Warren Circuit Court on May 22nd, calling

for a referendum in November on the city's proposal to purchase and operate its own electric distribution system.

The petitions protested against the city's plan to purchase the Kentucky-Tennessee Light & Power Company's properties in Bowling Green for \$730,000 and to issue \$790,000 worth of bonds or more to be used in the transaction.

Bowling Green was one of five southwestern Kentucky cities which recently contracted for purchase of K-T properties in the area and signed an agreement with the Tennessee Valley Authority for purchase of TVA-produced electric power. The plan called for municipal ownership and operation to begin June 1st.

State law in effect during the remainder of May provided for the calling of an election before a municipality purchases its own electric distribution system, provided as many as 200 citizens sign petitions requesting it. Legislation passed by the 1942 state general assembly, authorizing cities to purchase and operate their own electric distribution systems with TVA power, became operative June 1st.

Meanwhile, the Rural Electrification Administration in Washington allotted funds to three Kentucky cooperatives which plan to take over other western Kentucky properties of K-T not included in the transaction with the five cities.

The cooperatives and their allotments were Pennyrile Rural Electric Cooperative Corporation, Hopkinsville, \$420,000; Warren Rural Electric Cooperative Corporation, Bowling Green, \$218,000; West Kentucky Rural Electric Cooperative Corporation, Mayfield, \$253,000.

#### To Take Over Utilities

**T**HE Tri-City Utilities Company on May 21st was authorized by the state public service commission to take control of all Kentucky-Tennessee Light & Power Company

## PUBLIC UTILITIES FORTNIGHTLY

property not sold to the Tennessee Valley Authority before June 1st.

Commission Secretary Marvin Eblen said the commission approved an amended petition directing Tri-City to assume any responsibilities that may be imposed on K-T by the commission when it reaches a decision in the pending case on the lowering of Frankfort electric rates.

Tri-City, capitalized at \$3,000,000, will purchase K-T stock and continue K-T's liquidation. The new firm was set up to handle leftover properties after TVA purchases K-T systems in five southwestern Kentucky cities.

The new company is to dispose of a K-T gas system in Hopkinsville, electric and water systems in Frankfort, power plants at Cloverport and Hawesville, power facilities at Jellico, Tennessee, and other minor utility holdings.

### Seeks Gas Pipe-line Permission

THE Kentucky-Tennessee Natural Gas Corporation last month filed an application with the state public service commission for permission to construct and operate a gas pipe line from the Himyar field in Knox county, to Middlesboro and then to Knoxville, Tennessee, and the Alcoa Aluminum Company plant at Alcoa, Tennessee.

The commission set June 17th as date for a hearing on the petition, which stated that the Tennessee Public Utilities Commission already had approved the application.

Signed by C. M. Coleman, corporation president, the application said the firm did not contemplate retail distribution of gas but expected "to coöperate with persons or corporations owning facilities or to introduce facilities along the proposed pipe-line route."

## Louisiana

### Gas Rate Litigation

OUTCOME of the proceedings instituted by the state public service commission before the Federal Power Commission against the Interstate Natural Gas Company and the United Gas Pipe Line Company will have a direct bearing on the gas rates at New Orleans, P. A. Frye, secretary of the state commission, said recently.

Secretary Frye explained that the hearing of the commission's complaint against Interstate would be conducted at the Federal court building at Baton Rouge on June 15th, but the FPC had not set any date at that time on the proceedings against United Gas Pipe Line Company.

He said the state commission more than two years ago instituted proceedings with the FPC to investigate the rate charges, practices of the two companies in the transportation and sale of gas for resale to other consumers or distributing systems. The petitions further seek that after inquiries and hearings by the FPC the Federal agency fix "just and reasonable rates" in connection with the sales of gas made by these two companies.

"The proceedings in Baton Rouge on June

15th include all wholesale charges of any wholesale nature that are made by the Interstate Natural Gas Company to any local distributing gas systems where it sells gas wholesale," said Mr. Frye. "The hearing will most assuredly include the so-called gate rate charge made to the New Orleans Public Service. The proceedings against United Gas Pipe Line Company are similar to the Interstate proceedings."

City Attorney Francis P. Burns of New Orleans has been authorized by the Federal Power Commission to intervene in the proceedings against Interstate.

### Acts to Keep Gas

THE state legislature was asked recently to declare a public policy against any new plans for exporting the state's natural gas, valuable for making synthetic rubber, for fueling eastern industries which have huge coal stores readily available.

Governor Sam Jones said that he endorsed a joint resolution commanding the Federal Power Commission's policy of scrutinizing any new applications for gas pipe lines from southwestern states to the industrial East.

## Massachusetts

### Rate Schedule Suspended

A NEW schedule of rates filed by Boston Consolidated Gas Company, to have become effective June 1st, was suspended until July 1st by the state department of public utilities. The

proposed rate changes were in accordance with a sliding-scale clause whereby the consumer price of gas would increase or decrease with the cost of coal.

The price change would mean an increase of about 7 cents per thousand cubic feet.

## THE MARCH OF EVENTS

### Minnesota

#### Bus Coöperative Organized

A NEW transportation coöperative, first of its kind in the vicinity of St. Paul and organized because of the war emergency, was formally granted a permit by the city council last month to operate busses from Bellaire, on White Bear lake, to the St. Paul bus depot.

Application for the permit was signed by A. S. Billings, secretary-treasurer of the organization, which has sixty family members. It

is known as the South Shore Transportation Club. Under the plan, the club will operate two busses each way each day. The only stop in St. Paul will be at the bus depot and no one but members and their families will be carried. When the bus is not on the St. Paul trips, it will operate shuttle service to car line.

W. A. Parranto, commissioner of public utilities, said he was informed the service will save 30,000 automobile tire miles a month, and recommended the permit.

### Missouri

#### Rate Increase Planned

LACLEDE Power & Light Company customers will receive rate increases ranging between 1.7 to 7 per cent a year when Union Electric Company of Missouri consummates

its proposed purchase of Laclede holdings.

J. Wesley McAfee, president of Union Electric, said the company planned to raise the rates of Laclede customers if acquisition of the Laclede firm is approved by the state public service commission and the SEC.

### Nebraska

#### District Would Absorb Utility

THE Consumers Public Power District of Columbus recently announced that it had made a formal offer of \$40,680,000 to the American Power & Light Company of New York for the Nebraska Power Company of Omaha—the state's largest privately owned public utility and the last major power concern in Nebraska not under the district's supervision.

The offer is for Nebraska Power properties, franchises, and similar holdings. In addition, Consumers offers to buy Nebraska Power's accounts receivable, prepaid accounts such as insurance and other similar items expected to lift the entire deal to more than \$43,000,000.

Instead of buying the actual property, Consumers offers to buy all common stock in Nebraska Power, which is held by American Power & Light, except for directors' shares and a few others outstanding. Under this plan American Power & Light would be required to retire Nebraska Power's bonded debt, estimated at around \$30,000,000.

Consumers sent a copy of its resolution authorizing the offer to Mayor Butler, and said it was prepared to discuss with representatives of the city "the various methods of insuring complete control of the property" mentioned in previous statements. It requested an early meeting for that purpose.

The resolution authorized Guy C. Myers, New York broker who has purchased the other Nebraska properties for Consumers, to make the formal offer to American Power & Light. Among benefits to the city claimed by Consumers are a prompt reduction of power rates, a low rate on bonds issued to pay for the company, elimination of Federal taxes on Nebraska Power earnings because of public ownership, continued payment by Consumers of taxes on the power property.

Consumers informed the city it may exercise its right to take over the property at any time, that the company would be operated on a nonprofit basis, and that earnings would be used only to retire the debt against it.

The city council was reported to have given a cold reception to the formal notice from C. B. Fricke, president of Consumers.

### New Jersey

#### Heads Utility Board

JOSEPH E. Conlon of South Orange was elected president of the New Jersey Board

of Public Utility Commissioners on May 28th, succeeding Frank J. Reardon of Jersey City, who died last April. Mr. Conlon was appointed to the board recently by Governor Charles

## PUBLIC UTILITIES FORTNIGHTLY

Edison, Crawford Jamieson, Trenton, former state senator, who was appointed by the governor to fill Mr. Reardon's unexpired term of

three years, joined the board for the first time on May 28th and participated in Mr. Conlon's election.

## New York

### Aid Bus Utilization

**A**RANGEMENT of working hours for employees in war plants in Nassau and Suffolk counties on Long Island so that busses that take workers to the plants can make the return trip loaded with other workers going home was scheduled to be discussed at a recent conference with plant executives and bus operators at Mineola, the state public service commission announced.

The commission also had under consideration the possibility of lower fares for war workers, as a result of the more economical use of busses through the proposed interlocking of working shifts.

Similar conferences were being held by the commission in every important war-industry zone in the state and gratifying results were being obtained, Milo R. Maltbie, chairman of the commission, said. In earlier conferences with plant executives and bus operators on Long Island, the commission arranged for extended routes and 18 new routes for busses for war workers. Express service is provided on many routes.

### Electric Rates Reduced

**A**NOTHER \$100,000 reduction in the electric rates of the Staten Island Edison Corporation was announced last month by Chairman Milo R. Maltbie of the state public service

commission. The new scaling of rates followed several weeks of negotiations with the company and brought the total reductions by the company to \$1,025,000 since 1938.

Some weeks ago, the utility, upon insistence of the commission, filed revised schedules providing reduced rates for residential and commercial users. The new tariff also included a rate for summer consumers. The commission found the summer rate unsatisfactory and so informed the company. The utility thereupon revised the summer rate and was to file a new schedule effective May 27th.

In 1938 the company made a reduction of \$500,000 in its rates as a result of a rate proceeding started by the commission. Subsequently the rate case was discontinued on condition that the utility make further reductions and in 1940 an additional scaling of rates resulted in savings of \$425,000 per annum to consumers. The commission insisted, however, that the company's revenues justified a larger reduction and the new filing will add \$100,000 more to the savings in the rates of the company's customers.

Rate revisions by the Central Hudson Gas & Electric Corporation, expected to save customers nearly \$30,000 a year net, were approved on May 28th by the commission. Rural customers will benefit mainly from the changes. The company serves Poughkeepsie, Beacon, Newburgh, and Kingston and large adjacent territories.

## Ohio

### Equalized Utility Tax

**A**RECOMMENDATION that certain Federal and state taxes, now levied upon privately owned utilities, be extended to municipally owned utilities at the same tax rate has been made by the board of directors of the Ohio Chamber of Commerce, George B. Chandler, executive vice president, announced on May 28th. These taxes are Federal electric energy tax of 3½ per cent on sales and the present Ohio 3 per cent gross receipts excise tax.

In a statement, the chamber asserted that privately owned utilities are subject to 10 taxes not levied on publicly owned utilities and that the tax increases on private utilities in recent years "constitute a menace to privately owned business not only in the nation but particularly in the state."

### Power Strike Threat Off

**T**HE Utility Workers Organizing Committee (CIO) on May 22nd called off its threatened strike against the Ohio Public Service Company at Warren, pending consideration by the War Labor Board.

The union said that Harold J. Straub, its national director, received a WLB request to withhold strike action and the executive board of the local union agreed.

The WLB was to send an examiner to Warren.

The union originally called the strike for May 19th but held it in abeyance four days to await word from the WLB. It charged the company, which supplies power to steel mills and the Ravenna shell-loading plant, had failed to meet with it for bargaining despite a cer-

## THE MARCH OF EVENTS

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tification by the National Labor Relations Board. The company contended that while the NLRB certified the union as a result of an election, the union failed to receive a majority of the total workers' votes, since a dozen ballots were contested.

### Trolley Service Rationing Looms

RATIONING of street car service, with workers in the war effort being given first consideration as passengers, looms as a direct possibility of the future under present assumptions, Morgan L. Evans, vice president of the Columbus & Southern Ohio Electric Company, said recently.

Even if plans now under consideration to ease future service demands are perfected and placed in operation, utility representatives are of the opinion that passenger service rationing will have to be invoked as an extreme measure, he declared.

Mr. Evans emphasized that his prediction was based on current assumptions embracing gas rationing and other factors. His statement followed an informal meeting in Columbus last month with utility men from Cleveland, Toledo, Dayton, and Cincinnati.

All these cities, he said, have the common problem of obtaining new equipment and meeting greatly increased future demands. And all look upon rationed service as a distinct possibility, he said.

## Oklahoma

### Firm to Submit Data

THE Public Service Company of Oklahoma was directed last month by the Federal Power Commission to submit data pertaining to its refunding transactions.

A commission announcement said the company had been ordered to show cause by July 1st why it should not be required to "make certain accounting adjustments and file applica-

tion with the commission for permission to amortize the unamortized debt discount resulting from refunding transactions involving the issuance and sale of \$16,000,000 in first mortgage bonds and \$1,000,000 in unsecured notes in March, 1941, and April, 1940, respectively."

Proceeds from the issues were said to have been used to retire outstanding securities of the same amounts.

## Oregon

### Utility Districts Defeated

DEFEAT of three public utility district proposals in Oregon last month was said to emphasize the swing away from this form of operation since the outbreak of war. They were the first contested elections on such an issue in the state since Pearl Harbor and sharply reversed old trends.

In Washington county where three previous votes have been taken, including urban areas, a new proposal excluding the urban areas was submitted and was beaten on the showing of 37 precincts out of 49 by a vote of 2,814 to 1,538. This was a much higher negative ratio than in the November, 1940, election, when, with towns included, a district plan was beaten 6,827 to 6,376.

In Columbia county where a rural district

was voted in November, 1940, by a margin of 1,220 to 1,128, a proposal to approve \$1,250,000 of revenue bonds to buy properties of Portland General Electric and Northwestern Electric was beaten 792 to 541.

In Union county, which formed a district in November, 1940, by a vote of 4,077 to 2,544, a proposal for \$925,000 of revenue bonds to buy Eastern Oregon Light & Power properties went down by a narrow margin of 2,108 to 2,130, notwithstanding that strong Bonneville Administration efforts were made to carry the bonds, Dr. Paul Raver, Bonneville Administrator, having provided a transcribed broadcast used in the campaign and having strongly urged adoption.

Opinion was expressed in Portland that the outcome of the elections may have congressional effect against the Bone bill.

## Pennsylvania

### Free Rides Urged

THE Philadelphia city council last month urged the Philadelphia Transportation

Company to give free rides to service men in uniform. The resolution was offered by Councilman Louis Schwartz.

PTC carries policemen and firemen in uni-

## PUBLIC UTILITIES FORTNIGHTLY

form free, but legal authorities said the state public utility commission's consent would be necessary before the same concession could be extended to soldiers and sailors.

Acting Mayor Bernard Samuel formally laid before the council the PTC proposal to rearrange the seats in 75 Broad street subway cars to accommodate thirty more strap-hangers per car. An accompanying letter from R. F. Tyson, PTC vice president in charge of operations, said the cost would be about \$600 per car, or a total of \$45,000. He predicted the increased rentals resulting from the additional passengers carried would offset the expense within two years.

### Wholesale Gas Rates Cut

THE Federal Power Commission on June 1st ordered the Hope Natural Gas Company, which supplies natural gas to distribut-

ing companies in western Pennsylvania and Ohio, to reduce its wholesale rates to those distributors by \$3,609,857 a year.

One of the beneficiaries will be the Peoples Natural Gas Company of Pittsburgh. Rates to the local concern were ordered cut from 35.5 cents to 28.5 cents per thousand cubic feet, which means an estimated saving of \$682,000 a year. The reduction in the cost of gas to the Peoples Company is expected to be passed on to its customers in Pittsburgh, Altoona, and other western Pennsylvania communities.

It was expected to play a big part in a final hearing on a rate reduction the state public utility commission has ordered Peoples to make. This hearing was scheduled for June 16th.

Involved were not only current rates, but about \$4,000,000 in refunds covering the years 1940 and 1941.

## Virginia

### Facing Oil Shortage for Gas Manufacture

THE city of Richmond faces a shortage as serious, or more so, than the shortage of gasoline. It is a shortage of fuel oil for use in the manufacture of gas. If it were not for the fact that the city had a month's reserve supply of gas oil for use at the Fulton gas works "the gas plant would have been shut down," Utilities Director Hobson said recently.

The possibility that gas might be rationed to the Richmond consumer just as gasoline, sugar, and other commodities are now rationed was also created by the present situation.

### Ends Free Entrance Wiring

FREE entrance wiring for electric range and water heaters will not be furnished after June 30th, according to an announcement made recently by M. C. Smith, vice president of the Virginia Electric & Power Company.

Mr. Smith said that the company's policy of providing free entrance wiring was being discontinued chiefly because electric ranges and electric water heaters are becoming scarce and calls for free entrance wiring are not frequent now because of this shortage. Should calls for such wiring be received, the company will provide it at a cost to the home owner or builder.

## Washington

### Execute Power Contract

THE Bonneville Power Administration and public utility district No. 1 of Whatcom county have executed a 20-year power contract which provides for the delivery of Columbia river power to the PUD not later than January 1, 1946, Bonneville Administrator Paul J. Raver announced last month.

The contract, subject to the district acquiring a power distribution system, definitely obligates the Bonneville Power Administration to supply power to the district by January 1, 1946.

The contract provides the Bonneville Power Administration shall make 16,500 kilowatts of power available to the PUD and up to 22,000 kilowatts on written notice from the PUD.

The Bonneville Administration will increase the contract demand above 22,000 kilowatts, subject to reasonable time being allowed for the installation of such additional facilities as may be required to serve such additional load.

Under the contract the PUD will purchase power at Bonneville wholesale rates and will resell the power at rates which will reflect the low cost of Columbia river power.

Provision was made in the contract for supplying power to the PUD when the district has acquired an electric distribution and transmission system in Whatcom county and on the date the present power contract between the PUD and the Puget Sound Power & Light Company expires, or has been terminated.

# The Latest Utility Rulings

Federal Action Excludes Regulation by State Authorities



If the paramount authority, which is the Federal government, has entered a particular field and legislated, such legislation supersedes any legislation by a state and denies to the state any right or power so to legislate. This, says the Indiana commission, is the law, and, accordingly, the commission has dismissed for want of jurisdiction a petition by a railroad company for approval of plans for an interlocking plant approved by the Interstate Commerce Commission.

The commission then reviewed Federal legislation and decisions of the United States Supreme Court and reached the conclusion that Indiana laws and rules promulgated by the Indiana commission, having to do with interlockers, had been superseded by congressional enactment. It was concluded that Congress intended, by the passage of the 1937 act, to extend the powers of the Interstate Commerce Commission as theretofore existing under the 1920 statute and to confer upon that commission the same authority over interlocking devices at railroad crossings that it

previously had with train control or block signal systems.

Commissioner Stuckey, in a dissenting opinion, declared that it was "with great concern to me that the commission has renounced jurisdiction in this case." He quoted with approval an opinion by the attorney general of Indiana to the effect that each case coming before the commission, where there is doubt as to whether the commission or the Federal authority is to go forward, would have to be taken up and decided separately on its merits. He referred to cases in which the state commission had denied approval of plans previously approved by the Interstate Commission. He said that as a state commissioner he should resolve a doubt as to his duty under state statutes in favor of state jurisdiction. He argued that the commission should hold fast "to the jurisdiction conferred upon it by Indiana statutes until such time as that jurisdiction has been wiped out by a court of record or by a specific statute." *Re Pennsylvania Railroad Co. (No. 15500).*



## Repair of Consumers' Appliances Not Subject to Regulation

A PROCEEDING instituted by the New York commission to investigate charges made by gas companies in connection with the repair and maintenance of consumers' appliances was closed upon a finding that the commission had no jurisdiction over charges for such work. Commissioner Van Namee, speaking for the commission, reviewed former rulings against the exercise of

commission jurisdiction over such matters as labor policies and practices, sale of electric appliances, and rental of appliances.

Companies operating in New York city had notified consumers that a minimum charge of \$1.50 would be made for responding to consumers' calls for servicing or repairing other than certain specified equipment. This notice also

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stated that if the work to be performed required more than one-half hour of the service man's time, a charge of \$1 would be made for each half hour or fraction thereof. The charges varied somewhat for different companies under investigation. It was testified that if a customer calls and notifies the company that something is wrong with his gas supply, the company will continue as in the past to send service men to the premises. If the service man finds that the trouble is not with the company's lines but with the customer's appliances, the customer will be advised that there is a charge for any work done on the appliances. Work is done by the repair man only when authorized by the customer, and the customer may, if he chooses, have an outside plumber or mechanic do the work at his own expense.

The following factors were taken into consideration in arriving at the charge for services on customers' premises:

1. Basic pay for service man per hour

2. Unproductive time
  - a. Traveling time
  - b. Unproductive calls; no one home
  - c. Sickness, vacation, and holidays
3. Transportation costs
4. Labor benefit taxes such as Social Security taxes, etc.
5. Supervision
6. Building rent

The commission found no occasion to go into the question of the reasonableness of these charges in view of its holding that it lacked jurisdiction. As a basis for this holding the commission referred to the rule that there is no continuing obligation on the part of a gas corporation to inspect the equipment and appliances on a customer's premises. In general, it was said, the repair and servicing of appliances is a competitive field, and it is "clear that the company is under no duty, statutory or otherwise, to inspect, repair, or maintain the customers' appliances." *Re Charges in Connection with Repair and Maintenance of Consumers' Gas Appliances (Case No. 10684).*



### Expense of Unsuccessful Litigation Allowed in Rate Making

THE Ohio commission, according to a ruling of the supreme court of that state, erroneously excluded from gas rate case expense the expenses incurred by the Ohio Fuel Gas Company in unsuccessfully presenting its views concerning the use of adulterated gas in the city of Columbus. Error was also found in the commission's computation of a gas rate after remand of a prior order by the court. [For commission decision, see 41 PUR(NS) 186.]

The company was authorized by franchise to furnish natural gas service in the city, but it furnished so-called manufactured inert and reformed gas as well as natural gas. A commission rate order [32 PUR(NS) 321] fixing rates on the basis of expenses for all of this service had been reversed by the court [40 PUR(NS) 184] on the ground that the company had no right to furnish anything but natural gas and that expenses in-

curred in furnishing the other gas must be disallowed.

After remand to the commission, expenses relating to adulterated gas were eliminated and there was also eliminated the expense incurred by the company in the rate proceeding. The court, although it had overruled the contentions of the company as to the propriety of furnishing mixed gas, said:

. . . such issues were a proper subject of controversy and litigation, and there is nothing in the record to show improvident or unjustifiable cost or expense of litigation occasioned by the appellant. The public utilities commission therefore erred in striking the 40 per cent from the gas rate case expense previously found and allowed by the commission.

The commission, on remand of the case, had substituted for the actual cost of gas as previously found the estimated cost if the company had purchased and supplied natural gas alone. This esti-

## THE LATEST UTILITY RULINGS

mated cost was somewhat higher than the cost of natural gas actually purchased by the company and previously allowed. After finding this figure, however, the commission further determined that about 93 per cent of the gas was natural gas and, consequently, that the necessary cost of the natural gas actually furnished in each thousand cubic feet of combined natural and manufactured gas was about 93 per cent of the cost found.

The court held that the commission had erred in reaching this conclusion. The net result, it was said, by reason of this percentage method of computation, would be a substantial reduction in the company's annual income. This action, the court held, was not only unauthorized but would establish a confiscatory rate. *Ohio Fuel Gas Co. v. Public Utilities Commission of Ohio et al.* 41 NE (2d) 389.



### Present Practices Control License Retendered After Litigation

A NEW phase of the controversy over the licensing of the water-power project on New river near Radford, Virginia, has developed as a result of disagreement between the Federal Power Commission and the Appalachian Electric Power Company concerning the wording of a license. A license tendered to the company in 1931 had been rejected, and after a Supreme Court ruling that licensing of the project was required the commission retendered a license.

The company made several objections to the form of the new license. Reference was made to the fact that the Supreme Court in its decision [*United States v. Appalachian Electric Power Co.* (1940) 311 US 377, 85 L ed 243, 36 PUR(NS) 129, 61 S Ct 291] remanded the action to the District Court with instructions to enter an order enjoining the construction, maintenance, or operation of the Radford project otherwise than under a license accepted by the company within a reasonable time, "substantially in the form tendered respondent by the Federal Power Commission on or about May 5, 1931, or in the alternative as prayed in the bill." Admittedly there were minor differences in the 1942 license, but the commission ruled that the license must be granted in accordance with the present administration of the act.

Objection was made by the company to the designation of the "Federal Power Act" as the source of statutory authority

instead of, as in the corresponding provision of the 1931 license, the "Federal Water Power Act." Objection was made to the subjection of the licensee to rules and regulations other than those relating to practice and procedure which the commission may subsequently issue instead of, as in the corresponding provision of the 1931 license, to the specifically designated rules and regulations adopted by the commission on May 1, 1928, and in effect in May, 1935. The commission replied:

The commission declines to revise the granting clause to accord with the company's objections because the Federal Power Act is the sole source of the commission's present statutory authority and the designation of regulations in effect at the time of the issuance of the license, which accord with the practice in effect in 1931, would be contrary to the existing administration of the act. Beginning in 1937, the commission has included in the granting clause of every major license a provision subjecting the licensee to the rules and regulations of the commission without limitation to those in effect at the time of the issuance of the license. The granting clause of the 1931 license subjected the licensee to all of the provisions of the Federal Water Power Act. Section 4(h) thereof conferred upon the commission a continuing authority to issue rules and regulations, and § 309 of the Federal Power Act confers a like authority.

The company requested that the license be issued for a 50-year period beginning either on June 30, 1934, the date of the beginning of construction, or May,

## PUBLIC UTILITIES FORTNIGHTLY

1935, the date of filing suit by the government to restrain construction without a license. The commission rejected this request and found no basis for extending the period of the license beyond the date on which the 1931 license would have terminated had it been accepted by the company within a reasonable time.

The commission ordered that unless an application for rehearing were filed the Attorney General should be requested to present to the United States District

Court a motion for entry of a final decree enjoining further maintenance or operation of the project otherwise than under a license in the terms and form of the new license tendered the company on November 28, 1941, as amended on January 20, 1942; and that if a final decree were entered in said action, the secretary should retender to the company a license in such terms and form. *Re Appalachian Electric Power Co. (Project No. 739).*



### Taxicabs Must Be Shared in War Emergency

THE District of Columbia Public Utilities Commission has ordered taxicab operators to participate in "emergency pick-up service" because of the belief that if private conveyances should be shared in the interest of our war efforts, then carrying capacity of public conveyances must certainly not be wasted. The commission said:

The taxicab pick-up service was instituted by this commission pursuant to its policy of utilizing all public transportation facilities to their maximum capacity, with the least possible waste. During the present emergency, with the acute shortage of rubber and the impending shortage of gasoline, but with an increase in demand for public transportation, attended by a shortage in transportation facilities, it is contrary to the public interest that a public vehicle having a carrying capacity of five passengers should

be devoted to the use of one passenger to the exclusion of others, allowing four-fifths of the carrying capacity of the vehicle to be wasted.

Various objections were made by taxicab operators, but the commission overruled them, holding in substance that a desire to avoid such service, dissatisfaction by taxicab drivers, a desire for privacy, public disfavor with this service, and other objections should not stand in the way of such a conservation measure. The commission said that the sacrifices riders are called upon to make in this connection are insignificant to those required of others who must give up a great deal in our war effort. *Re Emergency Taxicab Pick-up Service (Order No. 2267, Formal Case No. 312).*



### Payments to Affiliates As Part of Cost of Power Project

THE Federal Power Commission, in a determination of the actual legitimate original cost of a power project of the Pennsylvania Power & Light Company, passed upon the propriety of a large number of claimed project costs, including payments to affiliated companies. It was shown that Electric Bond and Share Company controlled the licensee and that construction fees were paid to Phoenix Utility Company, a company owned by Electric Bond and Share.

Counsel for the licensee argued that the only question involved with respect to the fee was whether it was reasonable. In opposition commission counsel urged that the issue did not go to the reasonableness of the fee but called for the application of the "instrumentality rule," under which Phoenix was to be regarded as either (a) a department of the licensee, or (b) a device utilized by Bond and Share for the purpose of exacting unwarranted profits.

## THE LATEST UTILITY RULINGS

The commission, disallowing the fee, said that use of the construction company enabled the exaction of unwarranted fees with a corresponding inflation of construction costs, while service contracts with the intermediate holding companies and their subsidiaries enabled the tapping of their gross revenues and the syphoning of large portions thereof, in the name of "services rendered," into the Bond and Share treasury. The services classified and described in the service contracts were (1) supervision and general services for which a fee was charged based on gross operating revenues, and (2) special services for which special fees were charged.

Payments to another affiliate for engineering services were also disallowed and a determination was made of the cost

to Bond and Share of rendering engineering services sought to be included as part of the cost of the project. This determination involved a study of "general overhead" and "direct departmental costs."

The commission, in allowing certain expenditures which had been questioned, said that the zone of reasonableness is very wide. Some circumstances had been explained and others resolved themselves into a mere difference of engineering opinion. The commission continued:

We are not dealing here with "fair value," which is largely based on opinion, but with actual cost, where opinion must give way to fact. The items of cost questioned by the engineer are allowed as claimed.

*Re Pennsylvania Power & Light Co.  
(Opinion No. 68, Project No. 487).*



### Rates Adjusted to Remove Discrimination Favoring Localities and Industries

A COMPLAINT filed by the city of Waukesha against rates of the Wisconsin Gas & Electric Company in that city was disposed of by the Wisconsin commission in an order revising rates so that discrimination between localities and discrimination in favor of large industrial users would be removed. A request that the company be required to keep accounting records of the cost of gas in the city of Waukesha and to measure adequately the aggregate demand for the city was denied, with the statement:

Arbitrary apportionments and added expense would be involved in separate accounting as requested by the city of Waukesha, and we see no reason for ordering any change in accounting procedure. Necessary apportionments to determine costs can be made in connection with rate cases as they arise. For the same reasons we are not ordering at this time installation of demand meters in the city of Waukesha as requested by the complainant.

No excessive rate of return on book value basis was shown, but discrimination in rates to small users was indicated. The fact that Waukesha lies near Mil-

waukee and in load characteristics resembles the industrial Lakeshore area was not reflected in rate levels. Since the commission concluded that rates for general gas service were discriminatory but not excessive, it was confronted with the question of whether it had power to cure a discriminatory rate situation when the rate of return is less than what is normally considered a reasonable return. The statutes, it was pointed out, specifically forbid unreasonable discrimination. The commission said:

The fact that the utility is probably not earning an excessive return should not tie our hands and prevent measures to cure an unreasonable discrimination.

The utility management through a series of voluntary rate reductions and no request for a rate increase has indicated either satisfaction with the present rate of return or a view that any rate increase would not improve net earnings.

Under these circumstances it seemed that no question of confiscation would be raised by an adjustment of Waukesha rates to eliminate the discrimination. The commission said, however, that it was

## PUBLIC UTILITIES FORTNIGHTLY

not called upon in this case to make a decision which might raise such questions because of the conclusion reached that certain rates to large industrial gas users were also discriminatory because of their low level. Higher rates for these industrial users were therefore ordered along with the reduction for other classes of users.

It was urged that industrial rates should not be increased because the industries were engaged in production of

war materials under contract prices based on existing gas rates. The commission said that the increase ordered was slight in relation to the total annual gas bill of such customers and could not appreciably disturb cost estimates on which such large war contracts were based. Moreover, the increase was the minimum rather than the maximum which the record warranted. *City of Waukesha v. Wisconsin Gas & Electric Co.* (2-U-1686).



### Other Important Rulings

**T**HE Securities and Exchange Commission granted a request by Gonzales, Texas, to intervene in proceedings under § 11(b)(1) of the Holding Company Act with respect to the Middle West Corporation and its subsidiaries, permitting the city as a party in the proceedings to be heard with respect to all matters affecting its interest. *Re Middle West Corp. et al.* (File No. 59-5, Release No. 3487).

The Securities and Exchange Commission, adhering to its ruling that § 11(b)(1), Clause (B), is to be interpreted as restricting additional systems to those operating in a state in which the principal system operates or in states adjoining such a state, held that the requirements of Clause (A) of § 11(b)(1) are additional to the standards provided by Clause (B) and where a company concedes its inability to sustain the burden of proof required by Clause (A), an order of divestment will issue. *Re United Public Utilities Corp. et al.* (File No. 59-38, Release No. 3368).

The Pennsylvania Superior Court, in upholding a decree against a motor carrier seeking an injunction against the commission, declared that a complainant who in his bill asserts his continued intentional violation of an order of the commission, duly affirmed by the court,

is in no position to ask for equitable relief from its enforcement. The carrier had pursued the statutory remedy by appeal from an order and lost and had not availed himself of further appeal. *Bickley v. Pennsylvania Public Utility Commission*, 25 A(2d) 589.

The Securities and Exchange Commission held that exception from competitive bidding required by Rule U-50 should not be granted on the basis of a previous unsuccessful experience with competitive bidding immediately after the declaration of war where the circumstances relating to a new offer are different; nor will an exception be granted merely because the credit rating of the applicant is less favorable than some other companies, or because the applicant already has a firm commitment for the purchase of securities at a price which the applicant believes to be favorable to it. *Re Public Service Co. of Indiana, Inc.* (File No. 70-433, Release No. 3521).

The Colorado commission held that a certificate authorizing the duplication of common carrier service already authorized should not issue where the existing service is adequate, or, if inadequate, where the carriers are willing to make it adequate. *Re Klamm* (Application No. 5861, Decision No. 18700).

**N**ote.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports*.

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PREPRINTED FROM

# Public Utilities Reports

COMPRISING THE DECISIONS, ORDERS, AND  
RECOMMENDATIONS OF COURTS AND COMMISSIONS



VOLUME 43 PUR(NS)

NUMBER 3

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**Q** These reports are published annually in five bound volumes, with an Annual Digest. The volumes are \$6.00 each; the Annual Digest \$5.00. A year's subscription to PUBLIC UTILITIES FORTNIGHTLY, when taken in combination with a subscription to the Reports, is \$10.00.

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DEPT. OF PUBLIC UTILITIES v. FALL RIVER GAS WORKS CO.

MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

Department of Public Utilities  
v.  
Fall River Gas Works Company

[D.P.U. 6718.]

Customers  
v.  
Fall River Gas Works Company

[D.P.U. 6719.]

Rates, § 374 — Gas — Initial block — Small users.

1. An increase from 75 cents to \$1 for the first 300 cubic feet of gas per month is not unjust and unreasonable discrimination against the poorer class of customers, since small users ordinarily termed "convenience customers," are not necessarily the "poorer class of customers," but a very low percentage of the small users of gas could be classed as people of limited means, p. 131.

Depreciation, § 24 — Annual allowance — Increased plant.

2. A lump sum which has been set aside for depreciation of gas plant over a period of years, which at present is at an average rate of about 1.55 per cent on depreciable plant, should be increased if the depreciable plant has increased substantially during the period, p. 131.

Rates, § 146 — Increased cost — Abnormal conditions.

3. An increase in rates is not unreasonable or improper during a period of abnormal conditions, entirely beyond the control of management, when costs are increasing to such an extent that the increase in revenue is unlikely to result in bringing earnings back to former levels, p. 132.

[April 27, 1942.]

A PPLICATION by gas company for authority to increase rates;  
granted.

By the DEPARTMENT: On February 26, 1942, the Fall River Gas Works Company filed with the Department, effective April 1, 1942, three new schedules of rates and charges to be made for gas sold and delivered as follows:

M. D. P. U. No. 42 General Service Rate,  
Schedule A  
M. D. P. U. No. 43 Seasonal Rate, Schedule B  
M. D. P. U. No. 44 Combination Rate for Residential Use and Building Heating, Schedule D.

The company also filed revised "Terms and Conditions" identified as

## MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

M.D.P.U. No. 45. In view of the general increases embodied in the rates as filed, the Department entered into an investigation upon its own motion as to the propriety of the rates and charges therein, and ordered said schedules suspended until May 1, 1942.

On March 2, 1942, a petition was filed with the Department by customers of the Fall River Gas Works Company requesting "a hearing in regard to the rate charged by the Fall River Gas Works Company."

After notice to all interested parties as required by General Laws, Chap. 164, § 94, amended by Stats. 1939, Chap. 178, § 1, a public hearing was held on March 16, 1942, at which time the customers' petition was joined and heard with the Department's investigation. Various exhibits were introduced by the company at said hearing and the Department heard representatives of the customers on their petition and members of the general court representing the area served by the company.

The Fall River Gas Works Company serves approximately 28,000 customers' meters in the city of Fall River and the towns of Somerset and Swansea. On December 31, 1941, the plant investment of the company was \$4,030,447. The depreciation reserve as of the same date was \$835,933, or 21.64 per cent of the depreciable property. The company had a surplus on December 31, 1941, of \$623,392. Common stock with a total par value of \$1,654,525 is outstanding with premiums paid in thereon of \$975,609. The net earnings available for dividends for the year 1941 were

\$122,832, representing a return of 4.67 per cent on the outstanding stock and premium. The return on the plant investment of the company less the depreciation reserve was 3.85 per cent for 1941. The returns on the stock and premium for the four preceding years are as follows:

1937 .....	3.96
1938 .....	3.76
1939 .....	5.00
1940 .....	5.01

A revenue increase of \$95,000 is estimated under the proposed new rates. The question which presents itself for determination by the Department, therefore, is whether the proposed increase in rates is reasonable and proper in view of all the present circumstances.

It is contended by the company and supported by exhibits that after taking into account increased prices of fuel and labor costs, the increase in revenue will result at best in bringing the earnings back to the 1939 and 1940 levels. Under a recent contract entered into by the company, coal delivered in stock at Fall River costs \$6.64 a short ton, an increase of 82 cents a ton over the average price of \$5.82 in 1941. It is estimated that the company's fuel costs will be increased \$51,000 in 1942. Expectations are, however, that \$28,000 of this amount will be regained through higher prices for coke produced, making a net increase of \$23,000 in fuel costs. Payrolls will be increased in 1942 over 1941 by \$34,000 as a result of recently adjusted wage agreements. These are increased operating costs that are definitely known. Still further increases in the prices of fuel and materials are contemplated, due primarily to problems

## DEPT. OF PUBLIC UTILITIES v. FALL RIVER GAS WORKS CO.

in transportation resulting from the war.

The company has endeavored to forecast the results to be obtained by the proposed new rates after taking into consideration all factors with an allowance for Federal income taxes at a rate of 45 per cent. Earnings for 1942 under present rates and before payment of Federal income taxes are estimated at \$106,000. The increased revenue resulting from the proposed rates if effective May 1, 1942 will raise this figure to approximately

\$166,000, comparable to earnings before Federal income taxes in 1941 of \$163,000. It would appear from all the facts presented that with the further increase in costs anticipated, the

1942 earnings of the company may not exceed the 1941 earnings even if there be no increase in the Federal income tax rate. It is further estimated that under the most favorable conditions after a full year's operation with the proposed increase in rates, increased operating costs, and Federal income taxes and a possible reduction in local taxes, the net earnings of the company will be approximately \$130,000 comparable with the 1939-1940 earnings.

The three proposed new schedules of rates for gas sold by the Fall River Gas Works Company will increase the rates and charges on the initial blocks of 300 cubic feet of gas used from 75 cents to \$1 per month with a similar adjustment to be effected in the proposed seasonal rate. Another principal change in the proposed new rates is to make the same schedules uniformly available for the entire territory served by the company. At the present time there are two sets of

schedules of gas rates, one available to those customers located in the city of Fall River and the other schedule available to those customers located in the towns of Somerset and Swansea. This action will result in a substantial simplification in the company's tariffs. The proposed rates also provide for a fuel clause wherein the rates charged for gas used in excess of fixed amounts are increased or decreased in accordance with a variation in the price of coal used in the manufacture of gas.

[1] The principal objection raised at the hearing to the proposed new rates was to the increase from 75 cents to \$1 for the first 300 cubic feet per month. It was contended by the petitioners that the above increase in the first step is "unjust and unreasonable discrimination against the poorer class of customers."

The Department does not agree with this contention since experience has proved to its satisfaction that small users ordinarily termed "convenience customers," are not necessarily the "poorer class of customers" (see D.P.U. 5744 [1939] 30 PUR (NS) 260, 272). This is borne out by a recent survey made by the company in which it appears that a very low percentage of the small users of gas could be classed as people of limited means.

[2] The company since 1921 has been setting aside for depreciation a sum of not less than \$60,000 annually. The depreciable property of the company has increased from \$3,014,084 on January 1, 1927, to \$3,862,410 on December 31, 1941, or over \$800,000. At the present time the charge for de-

## MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

preciation is at an average rate of about 1.55 per cent on the depreciable plant. However, since the depreciable plant has increased some \$800,000 during the above-mentioned period, we think it reasonable that the company should revise upward the amount charged to operating expenses for depreciation purposes.

[3] The Department is of the opinion that the increase in rates as proposed by this company is not unreasonable or improper in view of the existing abnormal conditions, entirely beyond the control of the management, and believe it would be unwise and inexpedient to refuse this company relief to meet increases in the cost of operations.

Accordingly, after investigation, consideration and public hearing, it is

*Ordered:* That the proposed schedules of rates and charges for gas sold and delivered by the Fall River Gas Works Company filed with the Department on February 26, 1942 to become effective April 1, 1942, and suspended by successive orders of the Department to May 1, 1942, and identified as:

M. D. P. U. No. 42 General Service Rate, Schedule A  
M. D. P. U. No. 43 Seasonal Rate, Schedule B  
M. D. P. U. No. 44 Combination Rate for Residential Use and Building Heating, Schedule D  
M. D. P. U. No. 45 Terms and Conditions.  
be and hereby are allowed to become effective on May 1, 1942.

And it is

*Further ordered:* That the following schedules of rates for gas sold and delivered by the Fall River Gas Works Company to domestic customers be and hereby are approved as required by Chap. 365 of the Acts of 1934:

M. D. P. U. No. 42 General Service Rate, Schedule A  
M. D. P. U. No. 43 Seasonal Rate, Schedule B  
M. D. P. U. No. 44 Combination Rate for Residential Use and Building Heating, Schedule D.

And it is

*Further ordered:* That the petition of the customers of the Fall River Gas Works Company (D.P.U. 6719) be and the same is hereby dismissed, and it is

*Further ordered:* That the Department's investigation (D.P.U. 6718) be and it hereby is closed and terminated.

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## WISCONSIN CIRCUIT COURT, MILWAUKEE COUNTY

### Wisconsin Telephone Company

v.

### Charles H. Anderson et al.

*Service, § 464 — Telephones — Restriction of use — Unlimited residence service — Business of solicitation.*

1. The organized business of soliciting the purchase of theater tickets, flags,

## WISCONSIN TELEPHONE CO. v. ANDERSON

and other merchandise by use of unlimited residence telephone service violates the terms of the contract for such service, p. 133.

### Injunction, § 54 — Parties — Telephone company — Improper use of facilities.

2. A telephone company, owing a duty to its subscribers to protect them from the abortive or improper use of its facilities and entitled to enforce tariff restrictions, is properly in court to obtain an injunction against the use of unlimited residence service for the purpose of carrying on an organized business of solicitation of sales by telephone, p. 134.

### Discrimination, § 229 — Business use of telephone — Unlimited residence subscribers.

3. Discrimination against professional and business subscribers of a telephone company results from permitting the continued use of unlimited residence telephones for an organized business purpose, p. 134.

[March 11, 1942.]

### ACTION to enjoin sales, promoter and others from using unlimited residence telephone service for purpose of soliciting sales; injunction granted.

By the COURT: This action is addressed to the equity side of the court by the plaintiff, a public utility rendering telephone service to this community and other communities in the state of Wisconsin, and against the defendant, Charles H. Anderson, and other named defendants, for relief in the form of an injunction restraining and enjoining what is claimed to be an unlawful and unauthorized use of the service of the plaintiff furnished to those of the defendants who are subscribers or purchasers of such service.

[1] The court will not review the evidence which has been submitted, but it has revealed a very ingenious and well-organized business or enterprise carried on by the defendant Charles H. Anderson, who has, during the times referred to in the complaint and in the evidence, maintained a business office in the down-town section of the city, and has, as the court now finds, employed the other named defendants, excepting the husbands of

the women named, to carry on a solicitation of other subscribers to the service of the plaintiff by telephone for the sale of tickets for admission to theaters and, in a later instance, for the sale of American flags.

We say that the business was well organized because it appears affirmatively that the solicitors who were employed by the defendant Anderson were contacted through a newspaper advertisement, and in each instance such solicitors had already subscribed and were using unlimited residence facilities in their homes or, after their employment by the defendant Anderson, changed their then form of service to the unlimited residence service so as to carry on such solicitation and business.

The court finds that this was a violation of the terms of the contracts for service to such solicitors as are named defendants in this action.

The business of the plaintiff and the rendering of its service to subscribers require that certain classifi-

## WISCONSIN CIRCUIT COURT

cations be invoked and rates for various types of service be used. These matters have been approved by the Public Utilities Commission of this state under the statutes and have been on file.

It is in evidence that these solicitations were made for a charity or an organization of a charitable or social aspect, but the court looks upon that ostensible purpose, that is, the so-called charitable end of this business, as subordinate to its real purpose. It amounted to no less than the purchase for a consideration by the defendant Anderson of the use of the name of that charity or organization which was employed in the sales work done by these solicitors. This finding is confirmed by the sales literature supplied by Anderson to the solicitors. It is confirmed by the testimony of Miss Fries, one of the solicitors; before the exhibit containing the language to be employed was introduced and received in evidence, there was the representation, testified to by Miss Fries, contained in the exhibit later identified and received, that the solicitor was a member of the organization named and was calling on its behalf. This was untrue, and it was known by Mr. Anderson, as well as by the solicitor using the device, to be untrue. It was used to mislead other subscribers to the service of the plaintiff who were charitably inclined or credulous, and the court has no doubt that it did mislead hundreds of people to contribute to charities that received a very insignificant amount of the money collected by the collectors who delivered the tickets.

The telephone is an indispensable

part of all of our lives today. It has its uses which are valid, proper, and well-nigh indispensable. The service may be abused. It is our concept that one with whom we do business, one who solicits our charitable donations, should be honestly identified and made known to the person solicited. The facility employed in this case by the defendants was one which might well be employed to mislead, and the court finds under the facts in this case that it was in fact so used.

[2, 3] The plaintiff owes a duty to all of its subscribers to protect them from the abortive or improper uses of its facilities. It is properly in court in this case on that score as well as on the principle that those using its residence facilities under the tariffs on file and under the statutes of this state for business purposes were unlawfully using such facilities. To permit their continued use or, more properly, abuse, in this manner would be to discriminate against the professional man and the businessman who pays the proper rates for business facilities as distinguished from the residence rates.

The court finds upon the facts in evidence that a conspiracy existed between the defendants to unlawfully use the facilities and equipment and service of the plaintiff and that that unlawful and improper use, in violation of the contracts with the various defendants, should be enjoined.

The injunction will issue as prayed for in the complaint of the plaintiff and against the defendants named, that injunction to take effect forthwith and upon service of the judgment upon the defendants named.

## WISCONSIN TELEPHONE CO. v. ANDERSON

### *Findings of Fact*

1. The plaintiff is a Wisconsin corporation, engaged in the business of furnishing telephone communication service in the city of Milwaukee and throughout the state of Wisconsin.

2. The defendant Charles H. Anderson is a resident of Milwaukee county, and is engaged in the business of selling theater tickets and American flags through telephone solicitations, as hereinafter found.

3. Each of the defendants, Helen Poznanski, Myrtle Davis, Elizabeth Schneider, Catherine Finnegan, and Dorothy Allen, are residents of Milwaukee county and were, at the times alleged in the complaint, being furnished at their respective residences by the plaintiff, pursuant to contract, and paid for, one-party unlimited residence telephone service.

4. The defendant Charles H. Anderson for many years has maintained and now maintains a business office in the down-town section of the city of Milwaukee and, since September 1, 1941, employed the defendants, Helen Poznanski, Myrtle Davis, Elizabeth Schneider, Catherine Finnegan, and Dorothy Allen to make solicitations by telephone of other subscribers to the service of the plaintiff for the sale of tickets for admissions to theaters, which solicitations were made through the use of one-party unlimited residence telephone service of the plaintiff.

5. The defendant Charles H. Anderson employed since September 1, 1941, and now has in his employ various other persons, in addition to the defendants, who make solicitations by telephone of other subscribers to the service of the plaintiff for the sale of tickets for admissions to theaters, and

for the sale of American flags, which solicitations were and are made through the use of one-party unlimited residence telephone service of the plaintiff.

6. The defendant Charles H. Anderson has been engaged in the business heretofore found since the year 1935. This business is well organized. The solicitors who are employed by the defendant Charles H. Anderson are contacted through newspaper advertisements, and in each instance where a solicitor is employed, such solicitor already had subscribed for or was using one-party unlimited residence telephone service, or after the employment of such solicitors by the defendant Charles H. Anderson, and at his direction, changed the then form of telephone service of such employee to one-party unlimited residence telephone service, so as to carry on the business of soliciting other subscribers to the service of the plaintiff to purchase theater tickets and American flags. The telephone calls made by said solicitors and employees of the defendant Charles H. Anderson are upwards of one thousand calls per month, while the average normal use of one-party unlimited residence telephones in the Milwaukee base-rate area is between one hundred twenty-five and two hundred fifty calls per month.

7. The defendant Charles H. Anderson received a commission for each theater ticket and for each flag sold through his solicitors, and he paid each solicitor a fee or commission for each theater ticket and each flag sold by such solicitor and employee through telephone solicitation, as herein found.

## WISCONSIN CIRCUIT COURT

8. The solicitations of the sales of theater tickets and flags are made under the name of some charity or organization of a charitable or social aspect, which amounts to no less than the purchase from such charity or organization for a consideration by the defendant Charles H. Anderson of the use of the name of such charity or organization for the purpose of assisting in the sales business conducted by the defendant Charles H. Anderson, as hereinbefore found. The percentage of the amount of each theater ticket sold, or of each flag sold, which is received by the charity or other organization is very small. Where theater tickets purchased through solicitations, as herein found, are not used by the purchasers to gain admission to the theater, the charity or other organization, the name of which is used in connection with such sales, receives no part of the purchase price received by Charles H. Anderson for such tickets, as the percentage said charity or other organization receives is based on the number of tickets so sold and actually used to gain admission to the theater.

9. The plaintiff has filed with the Public Service Commission of Wisconsin, as provided by statute, its telephone rates for business services and residence services in the Milwaukee exchange base-rate area. The telephones of defendants Helen Poznanski, Myrtle Davis, Elizabeth Schneider, Catherine Finnegan, and Dorothy Allen, and the telephones of other solicitors of the defendant Charles H. Anderson, are in the Milwaukee exchange base-rate area. The use of the telephones made by said defendants named in this paragraph as em-

ployees and solicitors of Charles H. Anderson, and by other employees and solicitors of the defendant Charles H. Anderson, in making solicitations for the sale of theater tickets and American flags, as hereinbefore found, was and is substantially of a business nature, and comes within the classification of business service. The use of the one-party unlimited residence telephone service made by the defendants named in this paragraph, and other employees and solicitors of the defendant Charles H. Anderson, in soliciting the sale of theater tickets and flags, as herein found, is in violation of the terms of the contracts under which such service was and is furnished by the plaintiff, and is in violation of the tariffs, rates, rules, and regulations of the plaintiff on file with the Wisconsin Public Service Commission. To permit the use of one-party unlimited residence telephone service for business purposes, as herein found, would be discriminatory and in violation of the statutes of the state of Wisconsin.

10. The defendant Charles H. Anderson and the defendants Helen Poznanski, Myrtle Davis, Elizabeth Schneider, Catherine Finnegan, and Dorothy Allen, and the other solicitors and employees of the defendant Charles H. Anderson, using their one-party unlimited residence telephone service for solicitation purposes, as herein found, conspired to unlawfully use the one-party unlimited residence telephone facilities, equipment, and service of the plaintiff, as herein found, to the annoyance, injury and damage of the plaintiff, and to the annoyance of other subscribers to plaintiff's telephone service; which un-

## WISCONSIN TELEPHONE CO. v. ANDERSON

lawful and improper use is in violation of the contracts under which one-party unlimited residence telephone service was and is furnished by the plaintiff to the subscribers who used and are using or permitting the use of their one-party unlimited residence telephone service for business purposes, as herein found.

11. The defendants, Helen Poznanski, Myrtle Davis, Elizabeth Schneider, Catherine Finnegan, and Dorothy Allen, and other employees and solicitors of the defendant Charles H. Anderson, used and are now using one-party unlimited residence telephone service for business purposes without paying the plaintiff the revenue and charges to which the plaintiff is lawfully entitled for business service, all of which is in violation of the lawfully established rules, regulations, rates, and tariffs of the plaintiff, and the contracts with the plaintiff.

12. The defendant Charles H. Anderson, as a part of and in furtherance of the conspiracy hereinbefore found, has conspired, schemed, and agreed with various subscribers to one-party unlimited residence telephone service of the plaintiff, to permit persons other than the members of the household to which such one-party unlimited residence telephone service is furnished by the plaintiff to use such telephone service for the purpose of soliciting other subscribers of the plaintiff to purchase theater tickets and flags. The defendant Charles H. Anderson pays to such subscribers compensation for such unlawful, unauthorized, and improper use of unlimited residence telephone service, and also pays a commission to the persons making such solicitations.

### *Conclusions of Law*

1. The plaintiff is entitled to a permanent injunction as hereinafter stated.

2. Judgment shall be entered granting to the plaintiff a permanent injunction,

(a) enjoining each of the defendants, Helen Poznanski, Myrtle Davis, Elizabeth Schneider, and Catherine Finnegan, from using the unlimited residence telephone service now or hereafter furnished to said defendants by the plaintiff, for the purpose of soliciting other subscribers to the telephone service of the plaintiff to purchase theater tickets, flags, or other merchandise or property for the sale of which said defendant is promised or receives a commission or compensation;

(b), enjoining the defendant Charles H. Anderson from entering into, making, carrying out, or performing any arrangement, agreement, or contract whatsoever with any subscriber for unlimited residence telephone service for the purpose of making telephone calls to other subscribers of the plaintiff soliciting the purchase of theater tickets, flags, merchandise, or property of any kind, in connection with which sales the defendant Charles H. Anderson receives a commission or compensation, or in reference to which sales any such subscriber receives any commission or compensation;

(c) enjoining the defendant Charles H. Anderson from entering into, making, carrying out, or performing any arrangement, agreement, or contract whatsoever with anyone for the use of the unlimited residence telephone

## WISCONSIN CIRCUIT COURT

service of any subscriber of the plaintiff for the purpose of making telephone calls to other subscribers of the plaintiff soliciting the purchase of theater tickets, flags, merchandise, or property of any kind in connection with any of which sales the defendant Charles H. Anderson receives any compensation or commission, or in connection with which sales such subscriber or person making the telephone calls receives any commission or compensation;

(d) enjoining the defendant Charles H. Anderson from carrying out or continuing any arrangement with or contracting with, or assisting the defendants or any other person to use the unlimited residence telephone service furnished by the plain-

tiff to such defendants or others for purposes other than those for which said unlimited residence telephone service is agreed to be used under the contracts for such service, and the regulations, rates, and tariffs applicable thereto, or to use such telephone service for the purpose of soliciting the sale of theater tickets, flags, or any items of merchandise in connection with which sales the defendant Charles H. Anderson receives a commission or compensation or in connection with which any such subscriber of such service, or any other person making telephone calls in connection with such sales receives any commission or compensation.

Let judgment be entered in accordance herewith.

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## NEW YORK DEPARTMENT OF PUBLIC SERVICE, STATE DIVISION, PUBLIC SERVICE COMMISSION

### Re International Railway Company

[Case No. 10,688.]

#### *Service, § 272 — Substitution of busses for street cars — War.*

Authority to substitute busses for cars on tracks should be denied, without prejudice to renewal after the national emergency has passed, when there is a great demand for additional busses to serve war industries and other public demands and the Federal government has prohibited substitution of busses for vehicles operated on rails without prior authorization.

[April 15, 1942.]

**P**E TITION for authority to substitute motor busses for street cars; denied without prejudice.

By the COMMISSION: In Case 10,418 International Railway Company requested permission to substitute busses for cars on track not only

on its East Utica route but also on its Seneca and South Park routes. The necessary authority was granted for the latter two routes. Since the

## RE INTERNATIONAL RAILWAY CO.

company did not then have sufficient busses to substitute them for cars on East Utica line, and did not intend to make such substitution until May 1, 1942, the Commission denied the company's request to substitute busses on this line for the time being and until the company could show that it did have sufficient busses available to operate it.

By petition filed January 21, 1942, the railway company renewed its request for the substitution of busses. This case (10,688) was heard by Mr. Parshall at Buffalo on January 28th.

There is little question that the physical conditions on the East Utica line make the substitution of busses for trolleys on tracks desirable under ordinary or normal conditions. This has been shown in Commission cases 9,291, 10,418, and 10,419, and by inspections of track by Commission engineers. But conditions are not ordinary or normal. The rationing of tires and gasoline will no doubt continue to reduce the use of personal automobiles and increase the traffic on public transportation vehicles. This situation already requires practically all available busses, will undoubtedly continue to do so, and may require the rationing of busses. Under these conditions all trolley cars now in service should be discontinued and busses otherwise available reserved for emergency use.

Under date of March 21, 1942, by direction of the Commission, the secretary advised the railway company that the Commission had postponed action on the company's application in the above proceeding in

view of the great demand for additional busses to serve war industries and other public demands, the difficulty in securing additional and sufficient busses to meet these demands, and the possible necessity of continued operation of street car lines where under other conditions it might seem desirable to substitute busses for the street railway operation.

Subsequently, and on March 25 (effective April 1st), 1942, Joseph G. Eastman, Director of the Office of Defense Transportation, issued an order which provided, among other things:

"On and after the effective date hereof, no carrier by railroad, in respect of the transportation of passengers, shall substitute a bus or busses for any vehicle or vehicles theretofore operated on rails, over any existing line or route of such carrier by railroad, unless it shall have been authorized so to do by prior order or orders issued by this office. Such substitution shall not be made either directly or indirectly, nor through any person controlling, controlled by, or under common control or affiliated with such carrier by railroad."

In view of all the above facts the company's petition to substitute busses on the East Utica street line should be denied without prejudice to its renewal after the National Emergency has passed, and providing that it can then demonstrate that it has sufficient busses to operate the line without detriment to its other bus operations.

UNITED STATES CIRCUIT COURT OF APPEALS

UNITED STATES CIRCUIT COURT OF APPEALS, NINTH CIRCUIT

Northwestern Electric Company

v.

Federal Power Commission

[No. 9756.]

(125 F(2d) 882.)

*Interstate commerce, § 77 — Federal jurisdiction — Accounting.*

1. The Federal Power Commission has authority to regulate accounting practices of an electric company federally licensed under the Federal Power Act notwithstanding the powers of states to regulate accounting practices of utilities, p. 145.

*Appeal and review, § 28.2 — Scope of review — Federal Commission order — Accounting.*

2. The court, in reviewing an order of the Federal Power Commission relating to accounting, can consider only the question of law, whether the Commission abused its discretion or whether the action of the Commission was arbitrary or unreasonable, since the Federal Power Act does not authorize the court to determine what is necessary or appropriate for purposes of administration of the act, p. 145.

*Appeal and review, § 28.2 — Conclusiveness of decision — Federal Power Commission — Accounting.*

3. The action of the Federal Power Commission in prescribing a system of accounts under the Federal Power Act must be sustained if any reasonable man could take the view announced by the Commission, and the mere fact that the system of accounts prescribed might appear to the court to be unwise, burdensome, or inferior to another system is insufficient to show that a reasonable man could not take such view, p. 145.

*Accounting, § 3 — Powers of Federal Commission — Statutory limitation.*

4. The authority conferred upon the Federal Power Commission to prescribe a system of accounts to be kept by licensees and public utilities is unlimited, and restrained, if at all, only by the rule that the action of the Commission must not be arbitrary or unreasonable, p. 145.

*Accounting, § 8 — Property account — Original cost — Fair value.*

5. A system of accounts which requires an electric company to eliminate fair value from its accounts does not deprive the company of its vested property rights without due process of law, since the company has as much property as it ever had and the system of accounts, prescribing original cost, takes nothing from it, p. 146.

*Accounting, § 8 — Plant account — Original cost basis — Effect on rate making.*

6. A system of accounts prescribed by the Federal Power Commission for an electric company is not objectionable because it is based on original cost and eliminates fair value, regardless of the question whether original

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cost or fair value is to be used as a rate base, since the account incorrectly showing original cost shows one of the factors considered in determining whether a particular rate yields a fair return, p. 147.

*Accounting, § 8 — Property account — Original cost basis.*

7. No abuse of discretion is shown by the Federal Power Commission's order prescribing property account for an electric company on the basis of original cost, p. 147.

*Accounting, § 3 — Powers of Federal Commission — Correction of original cost — Retroactive accounting.*

8. The Federal Power Commission, having power to prescribe a system of accounts for electric companies, has power to determine the extent of the system, and, in determining such extent, the Commission in reaching a conclusion that retroactive accounting for indefinite periods in the past would lead to chaos in accounting rather than to a desired end of finality does not act unreasonably or arbitrarily, p. 147.

*Appeal and review, § 16 — Questions open to review — Matter involved on re-hearing.*

9. Until decision by the Federal Power Commission with respect to an item as to which a rehearing of the Commission's order has been granted, but not decided, there is no order to review, p. 147.

[February 13, 1942. Rehearing denied March 13, 1942.]

**R**EVIEW of order of Federal Power Commission relating to accounting by electric company; affirmed. For decision by Commission, see (1940) 36 PUR(NS) 202. For the decision by the Commission on rehearing as to one item, see *Re Northwestern Electric Co.* (Fed PC 1942) *post*, p. 148.

APPEARANCES: John A. Laing, Henry S. Gray, and Laing, Gray & Smith, all of Portland, Or., and A. J. G. Priest, Sidman I. Barber, Reid & Priest, White & Case, and Nicholas H. Powell, all of New York city, for petitioner; William S. Youngman, Jr., General Counsel, Federal Power Commission, Richard J. Connor, Assistant General Counsel, George Slaff, Principal Attorney, Federal Power Commission, and Milford Springer, Attorney, Federal Power Commission, all of Washington, D. C. (R. Goldberg and R. L. Russell, both of Washington, D. C., of counsel), for respondent; Smith Troy, Attorney General, State of Washington, and Harry A. Bowen, Special

Assistant Attorney General, of Olympia, Wash., for amici curiae, Department of Public Service of Washington; I. H. Van Winkle, Attorney General, State of Oregon, Willis S. Moore, First Assistant Attorney General, and Alvin A. Kurtz, General Counsel Public Utilities Commission of Oregon, of Salem, Ore., for amici curiae, Ormond R. Bean, Commissioner of Public Utilities of Oregon.

Before Garrecht, Haney, and Healy, Circuit Judges.

HANEY, C. J.: Review is sought of an order of the Federal Power Commission.

Petitioner was organized under

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the laws of Washington on January 7, 1911, by two San Francisco financiers who desired to acquire a water-power site to develop electricity for a paper mill in which they were interested. The promoters advanced \$175,000 to petitioner for the purpose of acquiring water-power sites, which amount was repaid on May 13, 1912, with interest. Petitioner thereafter decided to enter the utility business in Portland and vicinity to utilize the power developed in excess of the paper mill's requirements.

On March 14, 1911, petitioner's board of trustees issued to the promoters 50,000 shares of the \$100 par common stock, and on May 14, 1912, petitioner's board of trustees increased the capital stock of petitioner from 50,000 shares of \$100 par common to 100,000 shares of \$100 par common, and issued the additional 50,000 shares to the promoters. This \$10,000,000 of common stock was not recorded on petitioner's books until January 31, 1914, when it was entered in an account entitled "Land and Water Rights" and a corresponding credit to "Common Capital Stock."

In 1925, American Power & Light Company purchased all the common stock in petitioner at a cost of \$5,095,946.48. In 1936 petitioner was authorized by the regulatory authorities of Oregon and Washington to reduce the par value of its common stock from \$100 to \$35. Petitioner based the reduction upon the then fair value of its assets.

From the commencement of regular operations through 1925, petitioner did not capitalize interest during construction on all its construc-

tion expenditures, except for the period from 1911 to July 1, 1914, and except for construction of one plant. Since 1925, petitioner has capitalized interest during construction, on projects costing more than \$1,000, and, requiring more than thirty days to complete.

Respondent prescribed a Uniform System of Accounts for Public Utilities and Licensees and required the reclassification of the electric plant of public utilities, and adjusting entries necessary to reflect the reclassification as of January 1, 1937. Petitioner submitted a purported reclassification of its electric plant accounts. Respondent made an investigation of the reclassification and issued a report<sup>1</sup> thereon under date of April 26, 1940. Respondent's letter of transmittal to petitioner contained a request for a plan of disposition of the \$3,500,000 common stock item, and a request that petitioner adjust its reclassification to conform with the report.

The report recommended that an item in petitioner's reclassification, constituting a capitalization of interest charges for construction between July 1, 1914, and December 31, 1925, should be eliminated. It further recommended that the amount of \$3,500,000 should be retained in account 107—Electric Plant Adjustments—pending the submission to the Commission of a plan for its disposition.

Petitioner did not comply with the requests made and on June 18, 1940, respondent ordered petitioner to

<sup>1</sup> The report mentioned was actually a joint report of respondent and the Public Utilities Commissioner of Oregon, the latter also participating in the investigation.

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show cause why it should not find and determine by order that adjusting entries be made to bring the books of account in conformity with the report made. Hearing was held thereafter, and briefs were filed.

On December 6, 1940, 36 PUR (NS) 202, respondent issued its opinion and findings. With respect to the interest item, the Commission found that the omission of the interest capitalization prior to the proposed reclassification was a deliberate choice on behalf of the petitioner, which was the exercise of proper accounting discretion, was not an "error," was "reaccounting" rather than "reclassification," and that it would be improper for petitioner to include such item in its account now.

With respect to the common stock item, respondent found that the issue of the common stock was a "disguised gift" by the promoters to themselves; that "there is no reliable evidence in the record that any promoters' services of demonstrable value or any other consideration was received by the" petitioner for its common stock, and

"The real cost of all the property of the company at the time of the issuance of its common stock was represented by debt securities. This condition likewise prevailed on July 1, 1914, except for a small amount of preferred stock. Even today the company's entire common stock is not represented by any assets received by the company in exchange for it. No electric plant was received in exchange for the common stock; hence, no amount in respect thereof should remain in the electric plant accounts. The issuance of this

stock was manipulation." (36 PUR (NS) at p. 215.)

Regarding the disposition of the common stock item, respondent made the following statement:

"Considering all relevant factors, we find that it is in the interest of consumers, investors and the public to direct the disposition of the \$3,500,-000 write-up by requiring the company to apply all net income above preferred stock dividend requirements to the disposition of the \$3,500,000 in Account 107. This disposition, assuming adequate earnings, is the equivalent of obtaining ultimately from the holders of the common stock (the holding company) a consideration of \$3,500,000 for the stock. Certainly dividends should not be paid on the common stock until it has the equivalent of a paid-in value." (36 PUR(NS) at p. 218.)

The order of respondent, issued December 6, 1940, *supra*, required petitioner to comply with such findings. On January 9, 1941, petitioner filed an application for rehearing. On January 21, 1941, respondent granted a rehearing with respect to the common stock item, but denied the application as to all other matters. On February 21, 1941, and prior to a decision or order of respondent on the rehearing, petitioner filed in this court its petition to review respondent's order of December 6, 1940, *supra*.

The Federal Power Act<sup>2</sup> consists of three parts. The first part, in general, provides for the creation of the Federal Power Commission, the

<sup>2</sup> For discussion as to the title of the act see Montana Power Co. v. Federal Power Commission (1940) 112 F(2d) 371, 373, 35 PUR(NS) 187.

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improvement of navigation and the development of water power. 16 USCA §§ 791-823. Part II of such act, in general, provides for the regulation of electric companies engaged in interstate commerce. 16 USCA §§ 824-824h. Part III of such act, in general, relates to licensees and public utilities and contains procedural and administrative provisions. 16 USCA §§ 825-825r.

Part I, § 3, defines "net investment" in a project, the basis of which is "the actual legitimate original cost." 16 USCA § 796(13). Section 14 of such part, 16 USCA § 807, provides that the United States may purchase a project at the expiration of the license upon payment of such net investment, not exceeding the fair value of the property, and further empowers the Commission to determine the "net investment" of the licensee in the project. Section 20 of Part I makes provision for regulation of rates charged for power entering into interstate and foreign commerce, and stipulates that in any valuation of the property of any licensee "for purposes of rate making" no value will be claimed by the licensee or allowed by the Commission in excess of the value or values prescribed in § 14, 16 USCA § 813.

Section 201(a) of Part II of the act, 16 USCA § 824(a), provides as follows:

"It is hereby declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in this part and the part next following

[§§ 824-825r of this title] and of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale; in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the states."

Section 208(a) of such part provides that the Commission may investigate and ascertain the actual legitimate cost of the property of every public utility, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation and the fair value of such property. 16 USCA § 824g(a).

Section 301(a) of Part III of the act, 16 USCA § 825(a), requires every licensee and public utility to make, keep and preserve such records ". . . as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this act [chapter] . . . Provided, however, That nothing in this act [chapter] shall relieve any public utility from keeping any accounts, memoranda, or records which such public utility may be required to keep by or under authority of the laws of any state. The Commission may prescribe a system of accounts to be kept by licensees and public utilities and may classify such licensees and public utilities and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular

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outlays and receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof."

With these provisions in mind, we turn to the questions presented. It is difficult to tell what the exact contentions of petitioner are.

[1] It is contended that states may regulate the accounting practices of utilities and therefore, by the express words of § 201(a), Federal regulation does not extend to the regulation of accounting practices. While it is true that § 201(a) provides that "such Federal regulation" shall "extend only to those matters which are not subject to regulation by the states," the words "such Federal regulation" refer back to the kind of regulation previously referred to, i. e., to "matters relating to generation" of electricity, and to "that part of such business which consists of the transmission of electric energy in interstate commerce." As accounting of the sort involved here is not either of the things mentioned, § 201(a) does not preclude installation of a system of accounts by respondent.

[2, 3] It is further contended that the system of accounts authorized by § 301(a) of the act must be "necessary or appropriate for purposes of the administration" of the act, and that the system of accounts prescribed by respondent is neither necessary nor appropriate. We will assume, without so deciding, that the

system of accounts which respondent is authorized to prescribe, must be a system which respondent may lawfully determine to be necessary or appropriate for purposes of administration of the act. There is nothing in the act which authorizes us to determine what is necessary or appropriate for purposes of administration of the act. The duty to make such a determination is imposed by the statute on respondent. After such determination, the only question which may be presented to us is one of law. The question of law has been expressed in various words, such as: did the Commission abuse its discretion, or was the action of the Commission arbitrary or unreasonable, or was the action of the Commission based on whim, or is there any rational basis to support the view of the Commission? All these expressions lead to one conclusion, which is: could any reasonable man take the view announced by the Commission? If he could, then the action of the Commission must be sustained. If he could not, then the action of the Commission cannot be upheld. See American Teleph. & Teleg. Co. v. United States (1936) 299 US 232, 236, 237, 81 L ed 142, 16 PUR (NS) 225, 57 S Ct 170. The mere fact that the system of accounts prescribed might appear to us to be unwise, burdensome, or inferior to another system, is insufficient to show that a reasonable man could not take the view which the Commission took.

[4] Petitioner also contends that Congress did not intend to grant to the Commission authority which could be exercised by the states with respect to accounting matters. The

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arguments in support of this contention need not be repeated, for the language itself discloses the congressional intent. It authorizes the Commission to "prescribe a system of accounts to be kept by licensees and public utilities." The authority is unlimited, and restrained, if at all, only by the rule mentioned in the preceding paragraph. The mere fact that the Commission's authority over other things may be limited in the act, does not show that the authority over the subject in controversy is also limited. There is no good reason for reading into the language a limitation. We think that if Congress had intended such grant of authority to be limited, it would have been as specific in the limitation as it was in the grant.

Petitioner contends that even though the act is construed to give the Commission authority to prescribe an accounting system, the Commission may not issue regulations which oust the jurisdiction of the courts. We see no point to this contention. We know of no regulation which attempts any such action. Section 313(b) of the act, 16 USCA § 825l, specifically provides for review of orders of the Commission. If there is any regulation which attempts to limit that statute, it is not involved here.

The only other question before us regarding the general power of the Commission, is whether respondent, in prescribing the system of accounts here involved, prescribed a system which no reasonable man would prescribe. Petitioner argues that original cost is less significant

than other evidence of value, and that if original cost can be made the sole criterion of value for purposes of utility regulation, the investor will shun utility securities. Such arguments are among those which should be considered upon the initial decision of the question as to what system should be prescribed, but in so far as the decision of the question before us is concerned, our agreement with such arguments does not show that a reasonable man could not find another sound reason for the conclusion of the Commission. In other words, the question before us is not one which calls for the display of reasons or arguments supporting another view, but one which requires a demonstration, that the reasons or arguments supporting the view of the Commission, were those which could not have been accepted by a reasonable man.

[5] In this connection it is argued that rates must be based at a figure which will yield a fair return on the fair value of a utility's properties; that the courts have disapproved of the "original cost" value and have fixed the rule of "fair value" as the basis; and that therefore a system of accounts which requires petitioner to eliminate "fair value" from its accounts, is contrary to the decisions and deprives petitioner of its vested property rights without due process of law. The latter argument is unsound. Petitioner has as much property as it has ever had. The system of accounts takes nothing from petitioner. Petitioner may keep such other accounts as it desires. The present regulation only requires a particular system of ac-

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counts to be kept, not that other systems shall not be kept.

[6] Furthermore, original or actual cost of the property is a factor which must be considered in determining whether a particular rate yields a fair return. *Los Angeles Gas & E. Corp. v. California R. Commission*, 289 U.S. 287, 306, 77 L ed 1180, PUR1933C 229, 53 S Ct 637. While it is not the only factor, generally speaking, it is one of them. Whether the act in question requires rates to be fixed on values arrived at by the "original cost" method alone, or in conjunction with other methods, it is unnecessary to determine, for under any method "original cost" is a factor to be considered. Certainly there ought not to be any objection to the keeping of a system of accounts which will show correctly one of the factors to be considered in fixing rates—a matter within the jurisdiction of public bodies.

[7] Turning now to the justification for respondent's view in prescribing this system, we find indications in the act, quoted above, that Congress attached great importance to the "original cost" theory. A pertinent one is the provision for purchase by the United States of a project. Section 14. In addition, the reasons for prescribing an "original cost" system are almost identical with those described in *American Teleph. & Teleg. Co. v. United States, supra*, referring to telephone companies. Consideration of these reasons leads, we think, to but one sound conclusion which is that a reasonable man could believe that such reasons warranted the system of accounts in-

volved here. Since we have reached that conclusion, the judicial function is exhausted.

[8] With respect to the interest item required to be eliminated from petitioner's accounts, petitioner contends that the Commission's system specifically authorizes the inclusion of such items; that uniformity is flouted by elimination of the item; and that the contention that inclusion would improperly disturb the finality of past accounting is refuted by the Commission's action with respect to the common stock item.

There is no contention that the interest item could not have been properly included in the accounts at the time when they were born. Respondent's view is that the system it prescribed contemplated reclassification of old accounts in order that those items which did not represent "original cost" could be eliminated or corrected, and that the system did not, does not, and should not contemplate the inclusion of items which had never appeared on the old accounts. The Commission, having power to prescribe a system, likewise has power to determine the extent of the system. In determining the extent of the system, the Commission reached the conclusion that "retroactive accounting for indefinite periods in the past" would lead to chaos in accounting rather than to a desired end of finality. We think a reasonable man could take that view, and therefore the order, with respect to that item must be sustained.

[9] With respect to the common stock item, a rehearing of the Commission's order was granted but not decided. Until decided there is no

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"order" to review here. Federal Power Commission v. Metropolitan Edison Co. (1938) 304 US 375, 383, 82 L ed 1408, 24 PUR(NS) 394, 58 S Ct 963. Affirmed.

FEDERAL POWER COMMISSION

Re Northwestern Electric Company

[Docket No. IT-5642, Opinion No. 56-A.]

*Accounting, § 56 — Write-up — Evidence — Property valuation.*

1. Evidence as to value of property is entirely irrelevant and immaterial to the issue of a rehearing involving the presentation of a plan of disposition of a write-up of plant accounts, p. 150.

*Accounting, § 8 — Plant account — Cost or value basis.*

2. Cost, not value, is the fundamental basis of accounting for public utility plant, and it is erroneous to permit plant accounts to reflect changing values and to use estimates of value in lieu of valid cost, p. 150.

*Accounting, § 56 — Disposition of write-up — Elimination from plant account.*

3. A fictitious element in the accounts of an electric company, arising from a write-up of plant accounts to balance outstanding common stock not representing property, is not a valid or legitimate cost and has no place in the accounts but must be disposed of, p. 150.

*Accounting, § 56 — Write-up of plant account — Charges to surplus.*

4. A charge, or series of charges, to earned surplus over a period of years is reasonable and in the public interest for the purpose of disposing of an amount transferred to Account 107, Electric Plant Adjustments, as representing a write-up of plant accounts, although it would be proper to charge the item at once to earned surplus, where an immediate charge to earned surplus would create a large deficit in the surplus account, with the consequent detriment to preferred stockholders, p. 151.

*Accounting, § 56 — Disposition of write-up — Constitutional requirements — Deprivation of property — Charges to earned surplus.*

5. An order to dispose of a write-up of plant account by a charge, or series of charges, to earned surplus over a period of years does not violate the Fifth Amendment to the Constitution by depriving the company and the holders of its securities of property without due process or by taking their property without just compensation, p. 151.

[April 14, 1942.]

**R**EHEARING on order requiring reclassification and adjustment of plant account; amount representing write-up of plant account ordered to be charged to earned surplus over a period of years. See *Northwestern Electric Co. v. Federal Power Commission* (1942) 125 F(2d) 882, ante, p. 140.

## RE NORTHWESTERN ELECTRIC CO.

By the COMMISSION: By Opinion No. 56 and order entered on December 6, 1940, 36 PUR(NS) 202, the Northwestern Electric Company was required to make certain reclassification and other adjustments to its plant accounts. Among other things, the company was required to reclassify the amount of \$3,500,000, found to be a write-up of its plant accounts,<sup>1</sup> to Account 107, Electric Plant Adjustments, which amount was then ordered amortized as follows (par. 2 (a)): "For each year, commencing with the calendar year 1940, it shall credit Account 107, Electric Plant Adjustments, and charge Account 414, Miscellaneous Debits to Surplus, with a sum equal to its net income (Account 400, credit balance transferred from Income Account), less its preferred stock dividend appropriations for each such calendar year until the amount of \$3,500,000 shall have been entirely extinguished."

On December 30, 1940, we entered an order, upon application of the company, staying the order of December 6, 1940, *supra*, pending the application for rehearing which the company indicated it proposed to file, the stay providing, *inter alia*, that the "Northwestern Electric Company shall not declare or pay any dividends upon any shares of its common stock or make any other distribution on any shares of its common stock except as might be lawfully declared and paid after

fulfilling the requirements of the provisions of par. 2(a) of the Commission's order . . . adopted December 6, 1940."

On January 9, 1941, the Northwestern Electric Company filed an application for rehearing. By our order dated January 21, 1941, rehearing was granted for the purpose of permitting the presentation of a plan for the disposition of the amount of \$3,500,000 classified as a write-up by our order of December 6, 1940, in Account 107, and denied as to all other matters.<sup>2</sup>

The American Power and Light Company, holder of all the common stock of the Northwestern Company, was authorized to intervene in the proceedings by order of January 28, 1941.

The rehearing was held before an examiner on March 3 and 4, 1941, at Portland, Oregon, and oral argument took place before the Commission en banc on May 21, 1941, in Washington, D. C. At the rehearing, the company announced that the only plan of "disposition" it advocated was the "retention" of the amount of \$3,500,000 in Account 107. Its position on this point is well epitomized by the statement of its counsel during oral argument that ". . . our only plan of disposition, if you want to call it that, was one of indisposition to do anything about it."

The evidence offered by Northwestern at the rehearing related chiefly to earnings available for capital stock for

<sup>1</sup> The \$3,500,000 is an amount placed by Northwestern in its Organization Account actually only to balance the same amount of its outstanding common stock. In our opinion, 36 PUR(NS) at pp. 214, 215, we found, among other things: "The issue of the common stock was a disguised gift by the promoters to themselves." And "No electric plant was received in exchange for the com-

mon stock; hence, no amount in respect thereof should remain in the electric plant accounts. The issuance of this stock was manipulation."

<sup>2</sup> Subsequently, certain parts of our order of December 6, 1940, were appealed to the United States circuit court of appeals, ninth circuit, which affirmed our order in an opinion dated February 13, 1942, 125 F(2d) 882, 43 PUR(NS) 140.

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the years 1921-1940, inclusive, estimated cost of reproduction of the properties and business of Northwestern Electric Company as of December 31, 1924, December 31, 1932, December 31, 1935, and June 30, 1940, and schedules of the company's residential rates. The examiner rejected this evidence but permitted counsel to make an offer of proof.

Intervener presented evidence as to the amount paid by American Power & Light Company in 1925 for the 100,000 shares of the common capital stock of Northwestern Electric Company, a list of the holders of such stock prior to the transfer to American Power & Light Company, the market quotations of such stock for the year 1925, and certain documents relating to a stockholders' suit, the last two items being received in evidence over objection of Commission counsel.

The Commission staff presented no evidence at the rehearing, its evidence as to a plan of disposition having been presented at the initial hearing.

[1, 2] We have reviewed the valuation evidence offered by the company and by intervener, and are of the opinion that it is entirely irrelevant and immaterial to the issue of the rehearing, *viz.*, the presentation of a plan of disposition of the \$3,500,000 write-up.

It is asserted that we may not require the amortization of the \$3,500,000 write-up, inasmuch as the alleged present fair value of the property and assets of the company exceeds the recorded amount for such property and assets, including this amount of \$3,500,000. Reduced to its simplest terms, the company urges that its

property account can be written up at will so long as it is able to support such manipulation by evidence of present fair value. By the same reasoning, it would follow that the plant accounts should be written down every time there is a decrease in plant values. The recognition in the plant accounts of declines in the so-called fair value of properties during the recent long and severe depression would probably have brought disaster to most public utilities. The amounts to be honestly and properly recorded in a utility's plant account should not be permitted to oscillate with the ebb and flow of economic tides.

It is thus erroneous to permit the company's plant accounts to reflect changing "values" of the nature offered in evidence here and to use such estimates of "value" in lieu of valid cost. Adherence to such a principle, with its ever shifting plant values, would nullify the effective regulation of public utilities.

Cost, not value, is the fundamental basis of accounting for public utility plant, as well as for plant of other enterprises. Our System of Accounts, like all accounting systems prescribed by regulatory agencies, is grounded firmly in the cost principle.

[3] In this proceeding we are concerned solely with the proper disposition of what has heretofore been determined to be a fictitious element in the accounts of the company. The amount of \$3,500,000, which we have found to be a bold, deliberate write-up, is not a valid or legitimate cost and has no place in the accounts of an operating public utility company. The amount must be disposed of if sound accounting practices are to prevail.

## RE NORTHWESTERN ELECTRIC CO.

The only question remaining is the manner of disposition.

[4] Under the circumstances it would be entirely proper, as far as accounting principles are concerned, to order the \$3,500,000 item to be charged at once to the earned surplus of the company. In our opinion and order entered December 6, 1940, *supra*, we did not dispose of the amount in that manner for the reason that to have done so would have created a large deficit in the surplus account, with the consequent detriment to the preferred stockholders. We were cognizant of the fact that the preferred stockholders had paid some \$4,800,000 into the company (in contrast to the common stockholders who paid nothing into the company for the common stock) and that some means, if possible, should be found to protect their interests. Our order, in effect, contemplates a charge, or series of charges, to earned surplus over a period of years in the future and thus avoids the creation of a present deficit. We believe this requirement to be reason-

able and in the public interest; it will result in the elimination of inflation in the accounts of the company.

This is not to say that other disposition plans might not meet the exigencies of the situation had they been proposed by the company; but the complete indisposition of Northwestern to suggest any plan of disposition obviates our considering them here. Cf. Alabama Power Co. v. Federal Power Commission, No. 7853, decided March 30, 1942, — App DC —, — F(2d) —.<sup>3</sup>

[5] It is urged that the disposition of the \$3,500,000 write-up, classified in Account 107, violates the Fifth Amendment to the Constitution of the United States, in that it deprives the company and the holders of its securities of its and their property without due process, and takes its and their property without just compensation. There is no basis for this contention —neither Northwestern Electric Company nor its security holders are being divested of any property.<sup>4</sup> The

<sup>3</sup> In this case the United States court of appeals for the District of Columbia stated, inter alia:

"Obviously, the Commission was acting within the scope of its authority and probably performing its administrative duty when it required the company to remove the disallowed items from the project account. Where, then, shall they be put? The Commission says, in the earned surplus account. The company has been unable to suggest any other. . . ."

"It is apparent, therefore, that the company has been afforded every reasonable opportunity to present an issue upon the question, to be heard thereon, and to discharge the burden of proof which the statute imposes upon it of justifying any accounting entry which it chooses to make. Instead, it chose to challenge the indisputable powers of the Commission; it not only failed to take advantage of the various opportunities, and to shoulder its burden, but stated its inability and unwillingness to do so. Consequently, it has foregone the opportunity to question the propriety of the order. . . ."

"Under these circumstances, it is clearly suf-

ficient, as against the company's protest, that the disallowed items shall find lodgment in the account specified by the Commission. . . . After all, the Commission has many duties to perform, over a long period of time, other than coaxing a reluctant licensee to act as the law requires that it shall act.

"There is no showing that the Commission overstepped the bounds of its administrative powers or that its orders are entirely or in any wise 'at odds with fundamental principles of correct accounting. . . .' On the contrary, there has been no suggestion of any possible alternative to that proposed by the Commission, although the opportunity to do so has been long open. There has been no denial of due process; no lack of notice; no deprivation of fair hearing; and no action by the Commission which was not entirely within its jurisdiction and the scope of its duty as imposed by the statute."

<sup>4</sup> "Supposing, however, that the enforcement of the accounting system does require

## FEDERAL POWER COMMISSION

company's revenues and net income will not be diminished in the slightest by reason of writing out the inflationary item from its accounts.

It is also claimed that the disposition of the \$3,500,000 write-up will have an adverse effect on the company's credit standing and upon the interests of the holders of all of its securities. The argument is specious. Creditors and security holders will obviously be benefited by the removal of inflation from the company's accounts, and by having genuine assets supporting the common stock of the company.

them [preferred stockholders] to forego their current dividends, we do not concede that this amounts to an unlawful taking of their property." Kansas City Southern R. Co. v. United States (1913) 231 US 423, 453, 58 L ed

Based upon the evidence in this case, including that offered at the rehearing of March 3 and 4, 1941, we adhere to our original opinion and order and find that the \$3,500,000 write-up classified in Account 107, Electric Plant Adjustments, should be disposed of by charges to surplus in annual amounts equal to the company's annual net income less preferred stock requirements, until the entire amount has been extinguished.

An appropriate order in conformity with our opinion and findings will be issued.

296, 34 S Ct 125. See also Northern States Power Co. v. Federal Power Commission (1941) 118 F(2d) 141, 39 PUR(NS) 23; Alabama Power Co. v. Federal Power Commission, *supra*.

## DISTRICT OF COLUMBIA PUBLIC UTILITIES COMMISSION

Mrs. Ira P. Miller

v.

Capital Transit Company

[Order No. 2154, P.U.C. No. 2880/121.]

*Rates, § 319 — Street cars and busses — School children — Agreement approved by Congress.*

1. A paragraph in a unification agreement of street railway and bus companies, authorized by joint resolution of Congress, providing that the Commission shall fix the rate of fare at 3 cents for school children not over eighteen years of age going to and from public, parochial, or like schools and shall establish rules and regulations governing the use thereof, the provisions of an earlier act relating to reduced fares for transportation of school children being thereby superseded, is to be construed as requiring a 3-cent fare for students not over eighteen years of age going to and from a teachers' college which is part of the public school system, p. 153.

*Contracts, § 14 — Interpretation — Effect of legislative approval.*

2. The guiding question in interpreting a bus and street railway unification agreement approved by Congress is not what Congress intended in using words contained in the agreement, but what the company intended, p. 153.

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### Contracts, § 14 — Interpretation — Ambiguity.

3. Ambiguous words in a contract of a street railway company must be interpreted strictly against the company where it was the party which drafted the provisions, p. 153.

### Contracts, § 14 — Interpretation — Legislation.

4. Words contained in a unification agreement between street railway and bus companies, under congressional authorization, must be strictly construed against the limitation of a previously established legislative policy where the agreement limits the scope of a prior act of Congress and makes that limitation a condition for the acceptance of the merger by Congress, p. 156.

### Statutes, § 13 — Construction — Effect of administrative interpretation.

5. Congress, in approving a unification agreement between a street railway and bus company which provides for the limitation of a previously established legislative policy, must be deemed to have adopted the administrative interpretation of the earlier legislation contained in a Commission order relating to the subject matter, p. 156.

### Franchises, § 40 — Grant of special privilege — Interpretation.

6. Grants of special privileges must be interpreted strictly against the grantee, p. 157.

[January 23, 1942.]

**A**PPPLICATION by mother of student and request by superintendent of schools for determination of question as to right of student to reduced fare under provision of unification agreement authorized by Congress; student held entitled to reduced fare.

Chairman HANKIN delivered the opinion of the Commission:

[1-3] The question before us is whether students, eighteen years of age or younger, attending Wilson Teachers College are entitled to a reduced fare of 3 cents on street car and bus lines when going to or from school. This involves the correct interpretation and application of Par. 19 of the Unification Agreement of the street railways in the District of Columbia, authorized by the Joint Resolution of Congress, approved January 14, 1933 (47 Stat. 752). The paragraph in question reads as follows:

"Nineteenth. The Public Utilities Commission shall fix the rate of fare

at 3 cents for school children not over eighteen years of age, going to and from public, parochial, or like schools in the District of Columbia, and shall establish rules and regulations governing the use thereof: *Provided*, that upon the acceptance of this agreement by the parties and the completion of the unification, the provisions of the act entitled 'An Act to provide for the transportation of school children in the District of Columbia at a reduced fare,' approved February 27,<sup>1</sup> 1931, shall become inoperative."

Prior to September 1939, the Cap-

<sup>1</sup> The Unification Agreement erroneously refers to the 1931 Act as having been approved on February 27th; the act was approved on February 25, 1931.

## DIST. OF COLUMBIA PUBLIC UTILITIES COMMISSION

ital Transit Company had furnished application blanks to Wilson Teachers College for the purchase of 3-cent fare tickets by the students, in the same manner as such application blanks were furnished to other schools in the public school system. Since then the company furnished no blanks to this college, but the college continued issuing applications to its students until November, 1941. Then the company requested the college to discontinue the issuance of these applications. This resulted in an application filed by the mother of one of the students and a request by the superintendent of schools, for a determination of the question above stated.

The facts in this case are not in dispute. Wilson Teachers College is part of the public school system of the District of Columbia. To enter this college, one must have a certificate of graduation from one of the high schools in the District of Columbia, or an equivalent education. Upon graduation from this college, one receives a degree of Bachelor of Science. The students of this college are generally older than eighteen years, but some are younger. The total number of students below the age of eighteen years, at the time of the informal hearing held in this case, is said to be about forty, out of a total student body of 346 full-time students and 125 part-time students. The Capital Transit Company resists the application for a 3-cent rate of fare, as applied to these students, mainly because such a ruling would then be applicable to other similar institutions of learning in the District of Columbia, and then the amount of reduced fares will be substantial.

The company contends that *Congress never intended* to include college students below the age of eighteen within the meaning of the term "school children," as used in the joint resolution referred to; that while persons below the age of eighteen in high school are "children," they cease to be such when they graduate from high school and enter college; that then they become "college men" or "college women." The company also contends that the term "schools" in this connection may refer to grade schools or high schools, but not to colleges.

The general counsel of the Commission filed an opinion in which he takes the view that Wilson Teachers College is a "public school," relying on a recent decision of the United States district court for the District of Columbia in *Cavanaugh v. Ballou*, 69 Wash L Rep 182. However, he also takes the view that the students in Wilson Teachers College are not "children" within the meaning of the joint resolution. For this proposition he relies on *State ex rel. Seattle v. Seattle Electric Co.* (1912) 71 Wash 213, 128 Pac 220. There the supreme court of Washington interpreted a provision in a franchise that "school children going to and returning from school shall ride for half fare." The court held that the term "school children," as used in the franchise, included only those who are commonly referred to as "school children," not students of universities or colleges or schools where a particular branch of learning is pursued. The general counsel concludes that *Congress did not intend* to extend the privilege of reduced fares to the students of Wilson Teachers College, and he recommends that the complainant and

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the superintendent of schools be so advised.

We cannot agree with the arguments presented by the Capital Transit Company, nor with the opinion of our general counsel. The provision in question is not part of what Congress resolved in the joint resolution, but part of the unification agreement which Congress accepted as a basis for its resolution. The guiding question before us, therefore, is not what Congress intended in using these words, but what the company intended.

In this connection, it must be observed that the words in Par. 19 of the unification agreement are not free from ambiguity. The term "child" is a word of many meanings. It may designate a recently born human being, that is, an infant or baby; it may mean a young person between infancy and youth; or it may mean the immediate progeny of human parents. The phrase "child not over eighteen years of age" may indicate that it lies within the Commission's discretion to make the age limit anything less than eighteen years of age, for example, seventeen years or sixteen years; on the other hand, the phrase "not over eighteen years of age" may be descriptive of the entire class of children entitled to reduce fares. The word "school" is also a word of many meanings. It may be defined as an institution for teaching young children; as a place for instruction in some special branch of knowledge; or as an establishment for imparting education.

Since there is ambiguity in the words used, they must be interpreted strictly against the company, as the party which had drafted this provision. Orient Mut. Insurance Co. v.

Wright (1864) 1 Wall. (68 US) 456, 458, 17 L ed 505. Accordingly we interpret the word "school" in its widest sense as meaning any place of instruction, and the words "public school" as meaning any place of instruction which is a part of the publicly financed system of education. Likewise, the term "parochial school" refers to any school conducted by any religious institution, and the words "like schools" as referring to institutions of learning where courses of instruction are similar to those given in the public or parochial schools. We interpret the words "school children" to mean any persons attending or receiving instruction at public, parochial, or like schools, as herein interpreted, and the phrase "children not over eighteen years of age" as meaning all such persons who have not yet reached the age of eighteen.

There is still another reason which requires an interpretation against the company and in favor of the public. Paragraph 19 of the unification agreement proposed to make inoperative a previous act of Congress, entitled "An Act to provide for the transportation of school children in the District of Columbia at a reduced fare," approved February 25, 1931. This act provided that the Public Utilities Commission was "empowered and directed to fix reduced fares for school children not over eighteen years of age, going to and from school on street railway and bus lines in the District of Columbia, under such reasonable rules and regulations as the Commission may establish: *Provided*, That such reduced fares shall not exceed 3 cents." The object of this legislation was, undoubtedly, to encourage education

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through the removal of such obstacles as may present themselves on account of the cost involved in transportation. The policy to encourage education was not limited to the encouragement of primary school education. On the contrary, Congress must have known that ordinarily the primary schools were sufficiently near the residences of the school children as not to require such legislation. Nor is there any reason to suppose that Congress intended in that provision to limit its policy to the encouragement of education in secondary schools, for it has always been the policy of our government, as reflected in many instances of legislation, to encourage not only secondary, but also higher, education. This policy to encourage education, as applied in the Act of 1931, undoubtedly included such schools as were not within easy walking distance from the residences of the children. It is in the light of this policy that we must look upon the scope of the act of February 25, 1931.

[4] In the unification agreement, the street railway and bus companies agreed among themselves to limit the scope of the Act of February 25, 1931, and to make that limitation a condition for the acceptance of the merger by Congress. In Par. 19 of the unification agreement, the fare was to be fixed at 3 cents, rather than leave the matter within the discretion of the Commission to fix the fare at less than 3 cents; and the fares were to apply to public schools, parochial schools, or like schools (the last being left for determination by the Commission), rather than to all schools, as was provided in the Act of February 25, 1931. Paragraph 19 of the unification agree-

ment thus appears in the joint resolution as a limitation of a previously established legislative policy, and, as such, must be strictly construed against the limitation. *Spokane & I. E. R. Co. v. United States* (1916) 241 US 344, 350, 60 L ed 1037, 36 S Ct 668. In other words, the scope of the 1931 Act must be reduced as little as the language of the Joint Resolution of 1933 would permit.

[5] It will be noted that the Act of 1931 empowered and directed the Public Utilities Commission to fix the rate of fare and to make rules and regulations governing the use of the reduced fare by school children. Such rules and regulations were adopted by this Commission on March 3, 1931. The reduced rate of fare was made applicable to all school children not over the age of eighteen attending the public free schools and other schools whose courses of instruction were similar to the ones given in the public schools. At that time, it was within the Commission's discretion to fix the rate of fare at less than 3 cents, but the Commission fixed the rate at 3 cents. Apparently the Commission did not deem it to be within its discretion to limit the reduced fare privilege to children of younger age than the limit prescribed in the statute. The Commission, therefore, prescribed that the reduced fare be available to all school children not over eighteen years of age. In accepting the unification agreement which contained the same words and phrases as were used in the Commission's rules and regulations, Congress must be deemed to have adopted the administrative interpretation contained in the Commission's order of March 3, 1931, PUR1931B

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337; Alaska Steamship Co. v. United States (1933) 290 US 256, 261, 78 L ed 302, 54 S Ct 159. The Joint Resolution thus operates to deprive this Commission of all discretion in all particulars, except in the determination of what are the "like schools," in addition to the public and parochial schools, whose students might enjoy the reduced fare. In all other respects, the provision has been made mandatory.

[6] There is still a third reason leading to the same construction. Prior to 1933, the street railways in the District of Columbia were forbidden by the Anti-merger Act (Act of March 4, 1913, 37 Stat. 1006) from merging their operations. By the joint resolution, the street railways were authorized to merge. But Congress went further. It included additional grants of privilege; notably § 4 of the joint resolution which contains

a grant of monopoly to the Capital Transit Company and forbids the establishment of competitive railway or bus service without the prior issuance of a certificate of public convenience and necessity by the Public Utilities Commission. Grants of special privileges must be interpreted strictly against the grantee, which means, of course, that the consideration for the grant must be interpreted strictly against the company. Hannibal & St. J. R. Co. v. Missouri River Packet Co. (1888) 125 US 260, 271, 31 L ed 731, 8 S Ct 874.

In view of the above considerations, we conclude that the reduced rate of fare is applicable to students not over eighteen years of age attending Wilson Teachers College.

An appropriate order will be entered.

Commissioner Kutz concurs in this opinion.

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UNITED STATES SUPREME COURT

Steuart Purcell et al.

v.

United States of America et al.

[No. 803.]

(— US —, — L ed —, 62 S Ct 709.)

*Service, § 7 — Jurisdiction of Interstate Commerce Commission — Abandonment of rail line — Flood control project.*

1. The Interstate Commerce Commission has jurisdiction to grant authority to abandon a railroad line on the ground that a Federal flood control project would submerge the line and render it inoperable, p. 159.

*Service, § 244 — Abandonment of railway line — Absence of condition as to re-location — Flood control project.*

2. An order of the Interstate Commerce Commission granting authority to

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abandon a line of railroad because construction of a Federal flood control project would submerge the line and make it inoperable is not invalid because of its failure to impose a condition that substitute service be provided by relocating the line, where the Commission finds that, in consideration of the expenditure necessarily incident to relocation and increased cost of operation, public convenience and necessity do not justify relocation, and this is true regardless of the fact that the cost would have to be borne by the Federal government rather than the railroad, p. 159.

[March 2, 1942.]

*A*ppeal from order of United States District Court dismissing a bill for injunction against an order of the Interstate Commerce Commission authorizing abandonment of a railroad line; affirmed. For decision below see 41 F Supp 309, 42 PUR(NS) 386.

**APPEARANCES:** Clarence W. Miles and Joseph Sherbow, both of Baltimore, Maryland, argued the cause for appellants; James C. Wilson, of Washington, D. C., argued the cause for appellees, the United States and Interstate Commerce Commission; C. M. Clay, of Washington, D. C., argued the cause for appellees, The Confluence & O. R. Co. et al.

Mr. Justice BLACK delivered the opinion of the court: A Federal district court, composed of three judges in accordance with 28 USCA § 47, dismissed the appellants' bill which prayed for the annulment of an order of the Interstate Commerce Commission. 41 F Supp 309, 42 PUR(NS) 386. The order permitted the Confluence and Oakland Railroad Company, as owner, and the Baltimore and Ohio Railroad Company, as lessee, to abandon a railroad line approximately 20 miles long and to discontinue service entirely in the area now served: a semimountainous section along the Youghiogheny river between Confluence and Oakland Junction, Pennsylvania, and Kendall, Maryland. The

appellants, who also appeared as protestants before the Interstate Commerce Commission, are the Public Service Commission of Maryland and the McCullough Coal Corporation, a coal mining company which alleges it will be forced out of business if railroad service is discontinued.

The application to the Commission for abandonment was not made because the line had been operating at a loss. On the contrary, the Commission concluded that there was no evidence that the line had theretofore been a burden on the Baltimore and Ohio system of which it was a part; or that a predictable decline in the volume of traffic would make it one in the future, if it were allowed to continue in existence undisturbed. (1941) 244 Inters Com Rep 451, 458; 247 Inters Com Rep 399, 401. But continued undisturbed existence would be an impossibility in view of a flood control project already begun by the War Department under authority of an Act of Congress [June 28, 1938] 52 Stat. at L. 1215, 1216, Chap. 795. This project entails the construction of a dam which will create a reservoir covering

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an area in which 12 miles of the line are now located. It is conceded that unless a new connecting section is built, the sections of the line not to be inundated—a detached 6-mile segment above the dam, and a one-mile segment connecting with the main line of the Baltimore and Ohio below it—would serve no practical purpose justifying continued operation.

[1] The appellants do not challenge the statutory authority of the War Department to submerge the line as it proposes to do. Nor do they suggest that the Commission could or should take any action to deter completion of the project. Nevertheless, they contend that since "the sole reason for the abandonment was the flood control project, the application should have been denied forthwith by the Commission because of lack of jurisdiction to grant an abandonment on such ground." But under § 1 (18) of the Interstate Commerce Act the standard prescribed for the Commission in cases of this kind is whether "the present or future public convenience and necessity permit of such abandonment." 49 USCA § 1 (18). It is difficult to imagine what consideration of present or future public convenience could reasonably impel the Commission to decline to authorize abandonment of a line admittedly doomed to be rendered inoperable regardless of what action the Commission might take.

And the appellants suggest none. We must dismiss the appellants' contention on this point as without merit.<sup>1</sup>

[2] The appellants make the further argument that even if the Commission did not err in permitting abandonment of the line, its order cannot stand because of the failure to impose a condition that substitute service be provided by relocating the line.<sup>2</sup> After hearing testimony on the probable cost of relocation and the probable cost of maintaining a relocated line, the Commission concluded that "considering the expenditure necessarily incident to that relocation and the increased costs of operating the line that will be caused thereby, . . . we are not justified by the public convenience and necessity in taking action herein that will require the relocation of the line." The appellants do not contest the Commission's finding, amply supported by evidence, that the relocated line would require increased operating expenses. If the Commission had based its conclusion on this finding alone, there would seem to be no adequate ground for setting its order aside in judicial proceedings. The Commission did consider relocation costs, however, and the appellants contend that this was an improper consideration which invalidates its order.

In making this attack on the order, the appellants contend that under the statute authorizing the War Depart-

<sup>1</sup> Where projected inundation of a line made discontinuation of operations over it compulsory, the Commission has consistently given its authorization for abandonment. See Re Los Angeles & S. L. R. Co. (1936) 212 Inters Com Rep 597, 598: "It is apparent from the record that under the circumstances stated above the proposed abandonment is compulsory, and will not result in public inconvenience." In some such situations the Commission has attached the condition of re-

location. E. g., Re St. Louis-S. F. R. Co. (1941) 244 Inters Com Rep 485. In others, it has not. E. g., Re Southern R. Co. (1937) 217 Inters Com Rep 764.

<sup>2</sup> The Commission is empowered to attach conditions by § 1(20) of the Interstate Commerce Act which provides in part: "The Commission . . . may attach . . . such terms and conditions as in its judgment the public convenience and necessity may require." 49 USCA § 1(20).

## UNITED STATES SUPREME COURT

ment to construct flood control projects, the cost of relocation would have to be borne by the government rather than the railroad. Cost thus borne would not affect the financial condition of the railroad itself, the appellants urge, and therefore there could be no such weakening of the railroad's capital structure as would adversely affect the transportation system. Hence, the argument continues, in that balancing of the interests of those now served by the present line on the one hand, and the interests of the carrier and the transportation system on the other which a proper disposition of abandonment applications requires, *Colorado v. United States* (1926) 271 US 153, 70 L ed 878, 46 S Ct 452, the former interests must prevail.

As the court below pointed out, however, 42 PUR(NS) at p. 394, "an uneconomic outlay of funds would not be in the interests of transportation even though the money be derived from the national government." This court has recognized that operation of the national railway system without waste was one of the purposes the Transportation Act of 1920 was intended to further. *Texas v. United States* (1934) 292 US 522, 530, 78 L ed 1402, 1408, 54 S Ct 819; *Texas & P. R. Co. v. Gulf, C. & S. F. R. Co.* (1926) 270 US 266, 277, 70 L ed 578, 583, 46 S Ct 263. And a stated purpose of the Transportation Act of

1940, in the light of which Congress prescribed that the "Act shall be administered and enforced" is "to promote . . . adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers." [September 18, 1940] 54 Stat. at L. 899, Chap 722. When materials and labor are devoted to the building of a line in an amount that cannot be justified in terms of the reasonably predictable revenues, there is ample ground to support a conclusion that the expenditures are wasteful whoever foots the bill. The fostering care of the railroad system intrusted to the Commission is not so circumscribed as to leave it without authority to pass on the economic advisability of relocation in a situation where someone other than the carrier provides the money. The weight to be given to cost of a relocated line as against the adverse effects upon those served by the abandoned line is a matter which the experience of the Commission qualifies it to decide. And under the statute, it is not a matter for judicial redecision. Nor is there any indication in the Flood Control Act of 1938 that Congress desires to take away from the Commission any of the powers to make decisions of this kind which the Interstate Commerce Act had previously granted it.

The judgment of the court below is affirmed.

## RE RAILROAD INTRASTATE TARIFFS

PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Re Railroad Intrastate Tariffs

[Special Permission No. 20555.]

*Rates, § 630 — Filing of increases — Waiver of statutory notice — War emergency.*

Authority to file increased railroad freight rate tariffs on less than statutory notice was granted where similar increases had been granted for interstate rates by the Interstate Commerce Commission, as the increased rates were deemed necessary to meet increased expenses incurred and being incurred because of war emergency conditions.

*Rates, § 438 — Approval of increase — Effect of Federal authority.*

Discussion of the necessity of a state Commission authorizing a general increase in railroad freight rates notwithstanding a failure of railroads to submit intrastate operating data in view of the power of the Interstate Commerce Commission to arbitrate rate disputes under the standard of the relationship of intrastate to interstate commerce and the effect the former has on the latter, p. 162.

*Rates, § 438 — Filing of increases — Intrastate railroads.*

Criticism, in dissenting opinion, of approval of increased freight rates on anthracite and bituminous coal following approval of increase for interstate shipments by Interstate Commerce Commission, p. 163.

(BEAMISH, Commissioner, dissents; BUCHANAN, Commissioner, concurs in separate opinion.)

[March 9, 1942.]

**P**EITITIONS by railroads to file upon less than statutory notice, with waiver of tariff rules and intermediate rule, and modification of outstanding orders, tariffs making effective on intrastate traffic the general increases permitted by order of March 2, 1942, of the Interstate Commerce Commission in *Ex Parte No. 148*; granted.

By the COMMISSION: There are pending before the Commission petitions and supplemental petitions filed on behalf of the railroads operating in the commonwealth praying that the statutory requirement of thirty days' notice be waived for the purpose of filing tariffs to make effective, not earlier than March 18, 1942, the same

increases in the intrastate freight rates as those authorized by the Interstate Commerce Commission for interstate traffic in its order of March 2, 1942, at the proceeding known as *Ex Parte No. 148*. The petitions also include a prayer that the intermediate rule of § 304 of the Public Utility Law be waived, that tariff rules be waived to

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

permit the filing of simplified tariffs and that outstanding rate orders be amended to permit the addition of the increases to prior determined rates.

The increased rates are deemed necessary to meet increased expenses incurred and being incurred due to conditions caused by the national war emergency. Nation-wide hearings were conducted in the proceeding at which representatives of the state Commissions were present and those representatives also participated in the deliberations with the Interstate Commerce Commission prior to the promulgation of said report by that Commission. The proceeding contemplated that the increased fares and freight rates would extend to intrastate business. We have already granted similar authority for the publication of passenger fares; therefore,

Now, to wit, March 9, 1942, it is ordered:

(1) That the carriers by railroad in the commonwealth of Pennsylvania be and are hereby permitted to file master tariffs and special supplements, and tariffs and supplements, upon one day's notice to the public and the Commission, so as to apply to the intrastate rates the same measure of increases in freight rates and charges as allowed by the order of March 2, 1942, at I. C. C. Ex Parte No. 148; provided, that such increases shall not be applied to the rates for the transportation of unprepared or condemned coal from the mines to the breakers.

(2) That outstanding orders permitting departures from the intermediate rule of § 304 of the Public Utility Law are hereby amended to permit the publication of said increased rates.

(3) That outstanding orders in determination of maximum rates are hereby amended to the extent of permitting said increases in rates.

(4) That, unless otherwise ordered, said increases in rates and fares shall expire six months after the termination of the present war.

(5) That tariffs and supplements issued under this authority shall show the following:

"Effective upon less than thirty days' Notice by Special Permission of the Pennsylvania Public Utility Commission No. 20555 of March 9, 1942."

Commissioner Thorne, being absent, did not participate in the vote on this order.

Commissioner Buchanan files a concurring opinion; Commissioner Beamish files a dissenting opinion.

BUCHANAN, Commissioner, concurring:

It is with reluctance that I concur in the approval of the general increase in railroad freight rates within Pennsylvania.

We have asked for intrastate operating data covering all railroads for 1940 and 1941 but find only operating revenues available. This orthodox method of determining the merits of the increases, therefore, is barred to us and should provide a sufficient base for disapproval of them. However, by Federal statute, Interstate Commerce Commission arbitrates such disputes under the standard of the relationship of intrastate to interstate commerce and the effect the former has on the latter. Such arbitration means in effect the approval or disapproval of that Commission's own

## RE RAILROAD INTRASTATE TARIFFS

decision in such cases as this. The invariable result of such arbitration is obvious.

The railroads, through an increase in freight traffic volume have materially increased their net revenues almost to the peak of 1929 according to the financial reports. It is doubtful whether further increase in those revenues is necessary even to meet the increased wage scale negotiated in December, 1941. Nevertheless if the additional revenues to be obtained by these increases were to be applied to the reduction of the overcapitalization notoriously present in the various railroad systems, perhaps the good gained thereby outweighs the domestic problems obviously created through the increases.

It is with the hope that the railroads will have profited by their experience during the past depression and will prepare for the inevitable next one that I agree with the majority that the increases should go into effect.

**BEAMISH**, Commissioner, dissenting: I dissent emphatically from the action of the majority of the Commission when it approves increased freight rates on anthracite and bituminous coal produced in Pennsylvania.

The Interstate Commerce Commission in Ex Parte No. 148 said:

"We must give weight, in effecting such increase, to the conditions which prevail in the several industries of the country, to the rates upon the commodities these industries produce or manufacture, and to the transportation revenues they yield."

In its last statement concerning the latest increase, the ICC asserts that

before making its decision that it examined local needs and conditions.

That statement simply is not true.

This announced policy of the Interstate Commerce Commission is in radical opposition to its practice in imposing additional burdens upon the distressed anthracite and bituminous production of Pennsylvania. On page 45 of the Interstate Commerce Commission decision in allowing the present increases this statement is made:

"Many of the principal bituminous coal-carrying roads are among the most prosperous in the country, and protestants urge that those roads are not in need of additional revenue."

So far as anthracite is concerned the Interstate Commerce Commission has in its files abundant undisputed testimony that anthracite production has been overburdened by freight rates and that it has been cut off from its traditional markets because of these unjust impositions. The Interstate Commerce Commission has driven another nail into the coffin inclosing the anthracite mining industry by this action. This new increase in anthracite freight rates comes on top of the larger 10 per cent increase imposed by the ICC three years ago, notwithstanding the united opposition of former Governor George H. Earle, the Pennsylvania Public Utility Commission, newspapers, bankers, businessmen, mine workers, mine owners and the public generally throughout the anthracite region.

The legislature of Pennsylvania appropriated \$50,000 for the purpose of protesting and reducing this 10 per cent increase. Another appropriation of \$50,000 was made by the legislature to oppose the burdensome bi-

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

tuminous rates. No effective use has been made of these appropriations.

Pennsylvania's bituminous area was sold down the river by the Pennsylvania Railroad, the New York Central, and other rail carriers when, about the turn of the century, they put into effect freight schedules which cut the throats of Pennsylvania bituminous miners and erected a differential in favor of West Virginia mine operators.

The insiders then bought heavily into West Virginia railroads and mines, feathering their own nests and im-

poverishing the Pennsylvania bituminous fields.

Now comes another burden on Pennsylvania's bituminous industry which even now can't get into the New England market although it is geographically closer to that lucrative fuel outlet dominated for four decades by West Virginia producers.

The increased freight rates on Pennsylvania coal will be reflected in increased costs of electric light and power, of munitions of all kinds and will add to the burdens of citizens generally.

## WISCONSIN PUBLIC SERVICE COMMISSION

### Re New Rockland Telephone Company

[2-T-913.]

*Monopoly and competition, § 84 — Unauthorized construction — Telephone service extensions.*

1. A petition for a hearing with respect to a proposed telephone service extension to borderline territory now being served by another telephone company does not constitute notice of intention to make such extension and, therefore, it would be unlawful and the Commission could not approve it, p. 165.

*Monopoly and competition, § 84 — Unauthorized construction — Telephone service extension.*

2. The Commission cannot legalize telephone service extensions to borderline territory being served by another such company where such extensions were made without the required notice, notwithstanding that they were made in reliance upon advice from a member of the Commission's staff, p. 166.

*Monopoly and competition, § 50 — Telephone service extension — Patrons' preference.*

3. Public need for the invasion by one telephone company of the area served by another such company is not shown by demonstrating the convenience of a few persons who merely prefer the service of one company rather than the other, p. 166.

[March 5, 1942.]

**A**PPPLICATION for authority to extend telephone service to area served by another company; dismissed upon the merits.

## RE NEW ROCKLAND TELEPHONE CO.

By the COMMISSION: On August 26, 1941, New Rockland Telephone Company filed a petition with this Commission asking for a hearing with respect to an extension of the company's exchange into certain sections within the town of Maple Grove, Manitowoc county.

APPEARANCES: New Rockland Telephone Company, by Leslie J. Valleskey, Attorney, Manitowoc. In opposition: Commonwealth Telephone Company by Walter Wellman Madison.

New Rockland Telephone Company has heretofore been serving subscribers in the town of Rockland and in the southeasterly portion of the town of Maple Grove. It also serves four subscribers in the village of Reedsville which is situated on the boundary line of the two towns. Commonwealth Telephone Company furnishes service generally in the village of Reedsville and in most of the sections of the town of Maple Grove in which New Rockland Telephone Company is not now lawfully serving subscribers.

[1] By its application herein, New Rockland Telephone Company seeks to have the Commission determine whether it would be lawful and proper for that company to render service in certain designated sections of the town of Maple Grove in all of which territory the service of Commonwealth Telephone Company is now either being rendered or is available to the public.

Under such circumstances the provisions of § 196.50(2), Statutes, makes it unlawful for the applicant to extend its lines or service within the town of Maple Grove without first giv-

ing notice of its intention to make such extensions to Commonwealth Telephone Company and to this Commission. We find that such notice was not given as required.

While it might be contended that the petition or application herein was the equivalent of such a notice, and while it is true that a member of the staff of the Commission to whom this case had been routed apparently so considered it, the fact remains that the petition is not such a notice. It evidences, at most, applicant's desire to make certain extensions of lines and service in the town of Maple Grove but no purpose or intention of doing so until after a hearing and after a determination by the Commission that the proposed extension would be proper. It is clear that Commonwealth Telephone Company so considered the petition and had a right to so consider it. It is also clear that relying upon the prayer of the petition for a hearing, Commonwealth Telephone Company filed no objections with this Commission to the application for hearing. The Commonwealth Telephone Company properly considered that the Commission would hold a hearing of which it would have notice and at which it might voice its objections to the proposed extensions. Moreover, as the record herein shows, New Rockland Telephone Company has heretofore given the notices specified by § 196.50(2) and cannot therefore plead ignorance of its requirements. Its petition herein clearly evidences a different purpose than to comply with such requirements.

Thus, while the Commission may possibly be said to have waived the giving of the notice required by said

## WISCONSIN PUBLIC SERVICE COMMISSION

§ 196.50(2) with respect to the extensions here involved, it cannot be said that Commonwealth Telephone Company has either received or has waived the giving of such notice. It follows that the extensions proposed in the application herein would be unlawful and the Commission could not approve them.

[2] This would be sufficient to conclude the matter were it not for the unfortunate fact that in reliance upon advice from a member of the Commission's staff New Rockland made a certain extension or extensions of its service into section 34 of the town of Maple Grove to serve two customers, viz., John Mahnke and William Rusch, or the tenants of farms owned by them. This advice was given without either the knowledge, approval, or direction of the Commission.

These circumstances are regrettable but they are not sufficient to legalize the extension of lines and service thus made. The Commission is bound to follow the law fully as much as New Rockland Telephone Company. It cannot approve applications for extensions of telephone lines in towns where there has been no compliance with statutory requirements. It follows that the application in this proceeding must be dismissed.

[3] While the dismissal of the application herein is thus essentially based upon the legal ground that the proposed extensions, including the extensions actually made, would be and are unlawful, we think it proper to state our conclusions upon what may be termed the merits of the application. New Rockland Telephone Company could give the notices prescribed by said § 196.50(2) and thereby prop-

erly present to the Commission the question of whether the extensions proposed in the application are required by public convenience and necessity.

The evidence upon that question appears to have been fully presented at the hearing in this proceeding and it seems to us that, in fairness to the parties, our conclusions based upon that evidence should be stated here and now, rather than to await the commencement of a new proceeding either under § 196.50(2) or otherwise. By so doing we determine the matter presented in the application herein rather than dismiss it summarily.

It seems clear to us that the extensions proposed in such application are not required by public convenience and necessity. Such extensions would be made in territory in which Commonwealth Telephone Company is rendering, or has undertaken to render, service. There is no evidence to show that the quality of New Rockland's service is superior to Commonwealth's, or that the service offered or being rendered by Commonwealth is inadequate. It is doubtless true that it would be more convenient for some residents of the town of Maple Grove to have New Rockland's service than Commonwealth's. If such subscribers were within New Rockland's field of undertaking their convenience might be said to be a part of the public convenience, the demands of which New Rockland might be said to have the right to meet.

But we are here confronted with a proposal of one telephone utility to invade the field of undertaking of another utility. In such case public con-

## RE NEW ROCKLAND TELEPHONE CO.

venience and necessity are not shown by demonstrating the convenience of a few persons who merely prefer the service of one utility rather than the other. If we were to say that public convenience and necessity required the extensions here involved, then, to be consistent, we would have to say that such convenience and necessity required a complete duplication by New Rockland of Commonwealth's facilities not only throughout the town of Maple Grove but in the village of Reedsville as well.

That confusion exists by reason of the proximity and overlapping of the fields of service of the two utilities here involved cannot be denied. But the remedy for that confusion does not lie in further overlapping or duplications of their service. It lies rather in the adoption of a program by both utilities whereby the facilities of each are made more readily available to the subscribers of both, without duplication of such facilities or of the existing service. This could be accomplished if the facilities and practices were restored whereby the calls on New Rockland's lines were switched by Commonwealth, so that by payment of a small increase in exchange rates toll charges between the subscribers of both utilities would be eliminated.

We consider this desirable because there is shown to be a considerable community of interest, both business and social, in the entire territory comprising the village of Reedsville and

the towns of Rockland and Maple Grove—the village being the natural and actual center of that community of interest. Such a program would be frustrated rather than met by the extension of New Rockland Company's facilities as proposed in the application in this proceeding.

We are therefore ordering that the application in this proceeding be dismissed upon its merits rather than that it be dismissed without prejudice to the commencement of any new proceeding designed to authorize any of the extensions of lines or service as proposed in such applications. It follows that the value of the extensions which New Rockland Telephone Company made as above indicated should not be considered as any part of a proper rate base for that utility.

### *Finding*

The Commission finds:

1. That the extensions of lines and service made by New Rockland Telephone Company in section 34 of the town of Maple Grove, Manitowoc county, subsequent to the filing of the application herein were made unlawfully because of failure to comply with the requirements of § 196.50(2), Wisconsin Statutes.

2. That public convenience and necessity do not require the extensions of the lines or service of the New Rockland Telephone Company as proposed in its application or petition filed in this proceeding.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Crime Prevention Association of  
Philadelphia

v.

Bell Telephone Company of Pennsylvania

[Complaint Docket No. 13567.]

Rates, § 256 — Interpretation of tariff — Discount to charitable organization — Telephones.

A nonprofit corporation aiding, pursuant to the purpose of its organization, in the prevention and suppression of crime by young persons, but not engaged in the principal work of giving direct aid to the health and comfort of human beings by means of money, services, or physical objects, cannot be classified as a charitable institution within the purview of a telephone tariff granting discount to charitable institutions giving such physical aid but excluding organizations engaged principally in the improvement of minds, the elevation of moral standards, reformation of habits, punishment of crimes or offenses, enforcement of law, or protection of rights.

(BEAMISH, Commissioner, dissents.)

[March 23, 1942.]

**C**OMPLAINT alleging that complainant is a charitable institution entitled to a discount on business rates for telephone service to such institutions; complaint dismissed.

By the COMMISSION: On June 30, 1941, Crime Prevention Association of Philadelphia filed the instant complaint against the Bell Telephone Company of Pennsylvania, alleging in substance that complainant is a charitable institution; that respondent in its Tariff Pa. P. U. C. No. 1, § 6, Tenth Revised Sheet No. 1 provides for a discount of 33½ per cent on the business rates for local telephone service to such institutions, and that respondent in violation of § 304 of the Public

Utility Law has refused to make such discount available to complainant. The tariff provisions in question are as follows:<sup>1</sup>

"Pa. P.U.C.—No. 1  
The Bell Telephone Section 6  
Company of Pennsylvania  
Tenth Revised Sheet 1  
Canceling Ninth Revised Sheet 1

*"Discounts"*

"Charitable Institutions  
"A charitable institution is allowed

Effective upon less than statutory notice by special permission of the Pennsylvania Public Utility Commission, No. 18886 of July 11, 1938.

<sup>1</sup> Issued July 20, 1938 Effective July 21, 1938  
By W. D. Gillen, assistant vice president,  
1835 Arch street, Philadelphia, Pa.

## CRIME PREVENTION ASSO. OF PHILA. v. BELL TELEPH. CO.

a discount of 33½ per cent on the business rates for local exchange service and facilities (which in connection with semipublic telephone service is confined to the daily revenue guarantee), directory listings, mileage, and miscellaneous, supplemental, and special equipment, when all the telephone equipment used is located in the administrative offices or the buildings of the institution or any branches thereof. No discount is allowed on installation charges (including those for special equipment), service connection charges, move charges, construction charges, restoration of service charges, charges for work done at actual cost, or on charges for sent-paid and received-collect messages at semi-public telephones. No discount is allowed institutions supported principally by funds received from the Federal government, or from state, county, or municipal governments.

"In the sense that the term is used in this tariff a charitable institution is a corporation, association, or branch thereof dependent upon voluntary contributions for support and engaged exclusively in giving direct aid to the health and comfort of human beings by means of money, services, or physical objects; in addition, a charitable institution is an institution whose work is gratuitous or that devotes any compensation it may receive to the prosecution of its work without profit to the organization or any member thereof. Corporations or associations whose principal work is the improvement of minds, the elevation of moral standards, the reformation of habits, the punishment of crimes or offenses, the enforcement of law, or the protec-

tion of rights are not considered charitable institutions.

"The definition of a charitable institution is interpreted to include also the following institutions: Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Young Men's Association, Boy Scouts of America, and Girl Scouts."

Respondent's answer filed July 14, 1941, denies that complainant is a charitable institution within the meaning of the above-quoted provisions for the reason that it is not engaged exclusively in giving aid to the health and comfort of human beings by means of money, services, or physical objects, but is engaged principally in the improvement of minds, the elevation of moral standards, the reformation of habits, the punishment of crimes or offenses, the enforcement of law or the protection of rights. It is averred therefore that complainant is not entitled to the discount provided for in the said tariff.

A hearing was duly held and oral argument was presented on behalf of both parties. The following are found to be the facts:

Complainant, a nonprofit corporation having no affiliation with any other organization, was formed October 4, 1934, under the laws of Pennsylvania. Its officers and board of directors are comprised of numerous outstanding civic leaders of the city of Philadelphia. The charter purpose of the association appears to be as follows:

"The purpose for which this corporation is formed is to aid in the prevention and suppression of crime by

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young persons, principally those over the age of sixteen years. To that end to collect, evaluate, and disseminate information regarding the criminal records, habits, and tendencies of such younger persons; to encourage and co-operate with all public and private agencies dealing with recreation, housing, employment and other movements which have relation to crime prevention; to aid in the prosecution, proper punishment, and rehabilitation of young men, principally over the age of sixteen years, charged with crimes or breach of ordinance; to initiate legislation and constructive measures designed to aid, correct, and restrain young persons, principally those over the age of sixteen years from crime to the end that the enforcement of the criminal law of the city of Philadelphia be maintained at a high standard of efficiency, crime reduced, the youth of the community bettered, and the general welfare promoted."

In pursuance of this purpose, complainant during 1940, answered over 500 requests for information regarding prevention of youth crime; gave 96 showings of a moving picture entitled "An Ounce of Prevention" to approximately 7,000 people; distributed 3,600 copies of a magazine relative to youth crime prevention entitled "Older Boys Magazine," and sponsored lectures to recruit classes of the Philadelphia police, and to parole and probation officers on the subject of "Youth Crime—Its Cause, Prevention, and Cure."

In addition to these activities complainant conducts certain recreational projects for boys between twelve and twenty-one years of age in the poorer areas of Philadelphia. The program of the association includes sports,

classes in arts and crafts, printing of a monthly newspaper, and the holding of weekly socials. Free medical examinations are furnished for boys participating in sports and in certain cases services of physicians and clinical treatment are arranged for. Classes in vocational guidance are also held and complainant conducts a small employment bureau to aid its boys in securing jobs.

The central offices of complainant are located at 1117 Pine street, Philadelphia, and in addition complainant provides for its boys 6 indoor recreational centers, gymnasium facilities situated in two public school buildings, and 13 recreational fields. The cost of renting the recreational centers and fields together with the cost of furnishing necessary athletic equipment, salaries of supervisors, instructors, and office personnel are borne by complainant. All of complainant's funds result from voluntary contributions, and in 1940 it raised and spent \$38,000 of which approximately half was derived from a fund established by Samuel S. Fels and the other half from individual and group donations. An operating deficit was suffered in that year, and complainant has operated at a loss also for the past four or five years. Neither the association nor any member thereof receives any financial profit from its activities.

The question of whether complainant is a charitable institution within the meaning of respondent's tariff here involved depends chiefly upon whether its principal work can be considered to be the giving of direct aid to the health and comfort of human beings by means of money, services, or physical objects. In all other respects com-

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plainant falls within the tariff provisions. Upon full and careful review of the instant record we are of opinion that complainant is principally engaged in the work of elevating moral standards and reforming the habits of boys and consequently cannot be considered a "charitable institution" as defined in respondent's tariff.

Complainant strenuously contends that its activities in the field of recreation are determinative on the question of its status and that when those activities are considered it is apparent that complainant is principally engaged in aiding the health and comfort of the boys with whom it works. With these contentions we cannot agree. As will be noted, complainant's charter purpose and certain of its activities are exclusively concerned with the improvement of morals and habits. We are further of opinion that the recreational work is directed toward that end also, although unquestionably it improves the physical well being of the boys. Complainant's providing of recreation centers, gymnasium facilities, playing fields, and safe apparatus appears to us to be primarily for the purpose of discouraging and combatting youthful tendencies toward mischief and crime. By enabling and encouraging boys from the poorer areas where temptations to wrongdoing are strong, to spend their leisure hours in a beneficial and stimulating environment engaging in clean games, rather than on the streets, engaging in harmful pastimes in the company of questionable associates, complainant is doing a work of crime prevention. Benefit to health and comfort are incidental to this main purpose.

While the undertaking of complain-

ant is highly desirable and laudatory, it does not constitute the "giving of direct aid to the health and comfort of human beings by means of money services or physical objects" and consequently complainant cannot be classified as a "charitable institution" within the purview of respondent's tariff. In view of this conclusion we find and determine that complainant is not entitled to the discount on its telephone service provided for in respondent's Tariff Pa. P. U. C. No. 1, Section 6, Tenth Revised Sheet No. 1, and that the instant complaint be dismissed; Therefore,

Now, to wit, March 23, 1942, it is ordered: That the instant complaint be and is hereby dismissed.

BEAMISH, Commissioner, dissenting: I respectfully dissent from the report and order adopted in this case.

The Crime Prevention Association of Philadelphia complained against its exclusion from a group of charitable organizations which under filed rate schedules receive from the Bell Telephone Company of Pennsylvania a discount of 33½ per cent on the business rates for local telephone service.

The Crime Prevention Association is a nonprofit organization whose aim is to remove evil temptations from boys between twelve and twenty-one years of age in the neglected areas of Philadelphia. In 1940 the association spent \$38,000 for this purpose approximately half of this sum coming from a fund established by Samuel S. Fels. During 1940 the Boys Clubs represented in the association had a total membership of 3,500 and about 20,000 nonmember boys used the club facilities. The outdoor playgrounds

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

of the association were used by some 40,000 boys. Motion pictures, a magazine entitled "Older Boys Magazine," individual vocational guidance, a summer camp, medical examinations, and modern guidance for underprivileged boys generally were among the good works performed by this association. No person can compute the good for the community that was accomplished. There has always been a deficit since the association was organized in 1934. Each year it has been met by Mr. Fels and his associates. The officers and outstanding workers of the association are among the civic leaders of the city of Philadelphia.

I was the sitting Commissioner in the hearings. It was testified by officers of the Big Brothers Association and the Playground and Recreation Association that the purposes and the work of these organizations are substantially the same as that of the Crime Prevention Association. Both the Big Brothers Association and the Playground and Recreation Association receive the discount of 33½ per cent as do the: Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Young Men's Association, Boy Scouts of America, and Girl Scouts.

The report and order to which this dissent is attached is the second report and order in this case. The first report and order was presented by the Law Bureau on March 4th. It sustained the complaint of the Crime Prevention Association of Philadelphia against the Bell Telephone Company and declared that the action of the telephone company in refusing to

grant the appropriate discount was "arbitrary and capricious and constitutes unreasonable discrimination in violation of § 304 of the Public Utility Law." The majority of the Commission thereupon sent back that report and order and directed the preparation of a new order in favor of the telephone company.

At the session of the Commission today I moved that all discriminatory rates of the Bell Telephone Company of Pennsylvania be examined by the Commission and that a complaint be issued against all such discriminations. I directed the attention of the Commission to the free services being given by the Bell Telephone Company to hundreds of persons throughout Pennsylvania and of the discriminatory low rates granted to a number of organizations and associations. That motion was voted down. I also called to the attention of the Commission the atrocious pension system of the Bell Telephone Company which gives discriminatory and outrageously high pensions to the higher bracket officers who already are being paid enormous salaries far beyond the value of their services.

The Commission in this case compels the Crime Prevention Association of Philadelphia to pay money which, under the filed rate schedules of the company, should not be paid.

The Bell Telephone Company needs this extorted money just about as badly as a polar bear needs an overcoat.

If ever an organization earned a discount the Crime Prevention Association is that group.

Above everything else, however, I denounce the action of the Commission

## CRIME PREVENTION ASSO. OF PHILA. v. BELL TELEPH. CO.

in this case as tyrannical and worthy of Hitler at his worst. The bureaus to whom were committed the analysis of the record and the preparation of an order used their best judgment in their conscientious summary of the law and the facts. That judgment and that conscientious study of the record were thrown back into their faces by the action of the Commission. The bureaus were compelled to reverse their findings upon the same record, the same law, and the same evidence upon which they passed in their first report and order.

I submit that such sacrifice of judgment and conscience makes for bad regulation. If the Commissioners wanted to reverse the record they should make their own study, their own findings and should write their own report and order. They knew well that the unfortunate employees were compelled to choose between their consciences and their jobs. The second report and order from which I dissent is a decision under duress.

Approached from every angle and at any distance this order is most unpleasantly odoriferous.

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### SECURITIES AND EXCHANGE COMMISSION

## Re The United Light and Power Company et al.

[File Nos. 59-17, 59-11, 54-25, Release No. 3438.]

*Intercorporate relations, § 19.3 — Holding company dissolution — Extension of time.*

An extension of time is necessary and appropriate in the public interest and for the protection of investors where a registered holding company, ordered, pursuant to § 11(b)(2) of the Holding Company Act, 15 USCA § 79k(b)(2), to liquidate and dissolve, has made a showing of due diligence in an effort to comply with the provisions of the order but has been unable to comply within the one-year period allowed.

[April 9, 1942.]

**A**PPLICATION for extension of time for compliance with order to liquidate and dissolve holding company; granted.

**APPEARANCES:** Donald R. Richberg of Washington, D. C., and John Dern of Chicago, Illinois, appearing for the United Light and Power Company; Davies, Richberg, Beebe, Bussick & Richardson, and Sidley, Mc-

Pherson, Austin & Burgess, of counsel; Nathan Greene, appearing for Allied Chemical & Dye Corporation; Louis F. Davis, appearing for the Public Utilities Division of the Securities and Exchange Commission.

## SECURITIES AND EXCHANGE COMMISSION

### *Introductory*

By the COMMISSION: The United Light and Power Company (Power) has filed with the Commission under the Public Utility Holding Company Act of 1935 an application designated as Application No. 11, requesting an extension of time for compliance with the order of this Commission, dated March 20, 1941.<sup>1</sup> This order, entered pursuant to § 11(b)(2) of the act, 15 USCA § 79k(b)(2), directed the liquidation and dissolution of the United Light and Power Company and United American Company.<sup>2</sup>

After appropriate notice, a public hearing was held and the Commission having considered the record now makes and files its findings and opinion.

### *The Requirements of § 11(c) of the Act*

Section 11(c) of the act provides as follows:

"Any order under subsection (b) shall be complied with within one year from the date of such order; but the Commission shall, upon a showing (made before or after the entry of such order) that the applicant has been or will be unable in the exercise of due diligence to comply with such order within such time, extend such time for an additional period not exceeding one year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers."

The United Light and Power Company represents that it was impossible

to carry out the remaining steps necessary for compliance with our order of March 20, 1941, within the initial one-year period, and requests that an extension be granted for an additional period of one year.

### *Review of Steps Taken to Comply with Order of March 20, 1941*

The application states, and the record of action indicates, that the policy of Power thus far has been, and is, to comply with the Commission's order of March 20th, as soon as it is practicable to do so. This has required the formulation of plans for, and the consummation of, a number of major transactions.

The first major step in complying with the Commission's order was the sale to the public by the United Light and Railways Company of its investment in Northern Natural Gas Company. Application No. 1, requesting the Commission's approval of this sale, was filed with the Commission on April 21, 1941. After a satisfactory price was agreed upon with the underwriter, an amended application was filed with the Commission, a hearing was held thereon on September 8th, an order approving the sale was entered on September 9th,<sup>3</sup> and the sale was completed on September 12, 1941.

On May 31, 1941, Applications Nos. 2 and 3 were filed with the Commission, requesting authority for Power to expend up to \$3,000,000 for the purchase of a portion of its outstanding debentures. These applications were approved by an order entered on

<sup>1</sup> See Holding Company Act Release No. 2636.

<sup>2</sup> As subsequently noted in the text, the

liquidation and dissolution of United American Company has been fully completed.

<sup>3</sup> See Holding Company Act Release No. 2991.

## RE THE UNITED LIGHT AND POWER CO.

June 12, 1941,<sup>4</sup> and \$3,000,000 of debentures were purchased shortly thereafter. During the period from March 20, 1941, to December 31, 1941, Power, pursuant to the applicable rules of the Commission and its order of December 18, 1941,<sup>5</sup> also purchased \$797,000 of its debentures.

On October 29, 1941, Application No. 4 was filed requesting the Commission's approval of a plan providing for the liquidation and dissolution of United American Company. The authority requested was granted by an order entered on November 18, 1941,<sup>6</sup> and the liquidation and dissolution of United American Company was completed before the end of the year 1941.

On November 24, 1941, Application No. 5 was filed with the Commission, and approved by an order entered on December 31, 1941.<sup>7</sup> The transactions, which were consummated on December 31, 1941, included, among others, the following:

(a) The release of the securities of La Porte Gas and Electric Company and Mason City and Clear Lake Railroad Company from the lien of the mortgage securing the first lien and consolidated mortgage bonds;

(b) The deposit of funds to redeem on February 10, 1942, \$1,256,600 principal amount of first lien and consolidated mortgage bonds,  $5\frac{1}{2}$  per cent series of 1924;

<sup>4</sup> See Holding Company Act Release No. 2819.

<sup>5</sup> See Holding Company Act Release No. 3198.

<sup>6</sup> See Holding Company Act Release No. 3140.

<sup>7</sup> See Holding Company Act Release Nos. 3242 and 3285.

<sup>8</sup> The companies which have been frequently referred to as first lien companies comprised the following:

(c) The transfer by Power to the United Light and Railways Company of the then outstanding capital stock of Iowa-Illinois Gas and Electric Company and the issuance by Iowa-Illinois Gas and Electric Company of additional shares of common stock to the United Light and Railways Company for \$13,375,000 in cash;

(d) The acquisition by Iowa-Illinois Gas and Electric Company from the United Light and Railways Company of all the then outstanding securities and indebtedness of United Power Manufacturing Company owned by the United Light and Railways Company;

(e) The acquisition by Iowa-Illinois Gas and Electric Company from Power of all the then outstanding securities and indebtedness of the first lien companies<sup>8</sup> (except La Porte Gas and Electric Company and Mason City and Clear Lake Railroad Company) owned by Power and the payment to Power of \$13,375,000 and the assumption by Iowa-Illinois Gas and Electric Company of the \$16,000,000 principal amount of first lien and consolidated mortgage bonds of Power remaining outstanding after the redemption of the \$1,256,000 principal amount of such bonds referred to above;

(f) The liquidation of United Power Manufacturing Company and the first lien companies acquired by

Fort Dodge Gas and Electric Co., Moline-Rock Island Manufacturing Company, Peoples Power Company, Peoples Light Company, Cedar Rapids Gas Company, La Porte Gas and Electric Co., Iowa City Light and Power Co., Ottumwa Gas Company, Tri-City Railway Co. (Iowa), Tri-City Railway Co. (Illinois), and Mason City and Clear Lake Railroad Company.

## SECURITIES AND EXCHANGE COMMISSION

Iowa-Illinois Gas and Electric Company, involving the acquisition by said company of substantially all of the property and assets of United Power Manufacturing Company and said first lien companies;

(g) The execution by Iowa-Illinois Gas and Electric Company of an indenture supplemental to the first lien and consolidated mortgage;

(h) The transfer by Power to the United Light and Railways Company of \$1,370,000 par or principal amount of debentures and preferred stocks of the United Light and Railways Company and Continental Gas & Electric Corporation, all of the outstanding common stock of the United Light and Power Service Company, and certain miscellaneous investments owned by Power; and

(i) The purchase by Continental Gas & Electric Corporation of \$607,500 principal amount of its outstanding debentures from the United Light and Railways Company.

Upon completion of the transactions referred to in Application No. 5, Power was discharged from any further liability with respect to the first lien and consolidated mortgage bonds and was in a position to effect the payment of its outstanding debentures.

On January 20, 1942, Power filed Application No. 8 with the Commission proposing a plan for the payment of the debentures in cash at the principal amount thereof, plus accrued interest to May 1, 1942. The plan was approved by an order of the Com-

mission entered on February 25, 1942,<sup>9</sup> and on February 26, 1942, Power deposited with the trustee under the debenture agreements cash in an amount equal to the principal amount of the outstanding debentures, plus accrued interest thereon to May 1, 1942. In addition, Power deposited with Central Hanover Bank and Trust Company, in escrow, cash in an amount equal to the premium payable upon voluntary redemption of the debentures to be returned to Power or its assigns unless a review of the Commission's order of February 25, 1942 shall be applied for in the manner and within the time prescribed in § 24(a) of the act, 15 USCA § 79x (a), and it shall be finally determined in such proceedings for review that the debenture holders are entitled to receive the premium.

In addition to the steps which have already been described as essential to compliance with our order of March 20, 1941, Power has taken certain other steps to eliminate some of the complexities in the holding company system. Among such steps were the following:

1. The liquidation and dissolution of the United Light & Power Industrials, Inc.<sup>10</sup>

2. The elimination and dissolution of Milwaukee Solvay Coke Company, a subsidiary of Milwaukee Coke and Gas Company.<sup>11</sup>

3. The disposition by the United Light and Railways Company of its interest in the common stock and purchase warrants of International Pa-

<sup>9</sup> See Holding Company Act Release No. 3345, 42 PUR(NS) 193.

<sup>10</sup> Approved by order of the Commission entered on December 15, 1941, as Holding

Company Act Release No. 3189.

<sup>11</sup> Approved by order of the Commission entered on February 5, 1942, as Holding Company Act Release No. 3316.

## RE THE UNITED LIGHT AND POWER CO.

per Company, formerly International Power and Power Company.<sup>12</sup>

4. The disposition of a substantial portion of its interest in Northwestern States Portland Cement Company.<sup>13</sup>

### *Remaining Steps to Be Taken*

In order to complete its liquidation and dissolution, Power represents that it will be necessary to:

(a) Dispose of its investments in La Porte Gas and Electric Company and Mason City and Clear Lake Railroad Company;

(b) Pay its current liabilities and expenses;

(c) Dispose of its remaining cash, including funds on deposit in escrow with Central Hanover Bank and Trust Company in case no review of the Commission's order of February 25, 1942, *supra*, is applied for, or the Commission's order shall be affirmed on review; and

(d) Distribute the common stock of the United Light and Railways Company among the stockholders of the company.

The application states that negotiations for the disposition of the properties of La Porte Gas and Electric Company to nonaffiliated interests have been completed and it was anticipated that a contract covering such sale would be signed not later than April 3, 1942, and that the transaction would be consummated by May 1, 1942. The proceeds to be received by Power upon the liquidation of La Porte Gas and Electric Company, together with cash now in Power's treasury, will be sufficient to en-

able Power to pay all of its current liabilities and short-term indebtedness and its remaining expenses of liquidation. As pointed out in Application No. 5, Power proposes to transfer to the United Light and Railways Company any cash remaining after it has paid all its liabilities and expenses.

A method for disposing of Mason City and Clear Lake Railroad Company has not yet been decided upon but the application states that the matter will receive prompt attention.

The one remaining step, which involves the distribution of the common stock of the United Light and Railways Company in a manner which the Commission shall find is fair and equitable to all classes of Power's stockholders, will require careful consideration by Power and the Commission.

### *Conclusion*

We have considered the application for an extension of time in the light of the record of the steps taken by Power since issuance of our order of March 20, 1941. As noted, continuous and very substantial progress has been made toward full compliance. We find that Power has made a fair showing that it was unable, in the exercise of due diligence, to complete the further steps necessary for compliance with our order, within the statutory time period of one year from March 20, 1941, and that an extension of time for one year from March 20, 1942, is necessary and appropriate in the public interest and for the protection of investors.

An appropriate order will issue granting the application for the extension requested.

<sup>12</sup> No Commission action is necessary for such transaction.

## SECURITIES AND EXCHANGE COMMISSION

### ORDER

The Commission having previously, by order dated March 20, 1941, pursuant to § 11(b)(2) of the Public Utility Holding Company Act of 1935, ordered among other things the dissolution of the United Light and Power Company; and said order having provided that the respondents should make application to the Commission for the entry of such further orders as were necessary or appropriate for that purpose, and the Commission having reserved jurisdiction to enter such further orders as might be necessary or appropriate; and

The United Light and Power Company having filed an application designated as "Application No. 11" in

which it requests an extension of time for compliance with the order issued on March 20, 1941, by this Commission; and

The Commission having found that the United Light and Power Company was unable in the exercise of due diligence to comply with said order within one year from the date of its entry, and that an extension of time is necessary and appropriate in the public interest and for the protection of investors;

It is *ordered* that the United Light and Power Company be, and it hereby is, granted an additional one year from March 20, 1942, in which to complete compliance with the Commission's order of March 20, 1941.

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## SECURITIES AND EXCHANGE COMMISSION

### Re D. E. Ackers et al.

[File No. 37-55, Release No. 3446.]

#### *Intercorporate relations, § 13.1 — Affiliated interests — Common officers.*

1. A transaction by which an operating company will continue to compensate an officer thereof while he is an officer of and drawing compensation from a holding company on a per diem basis may be temporarily exempted from the requirements of § 13(a) of the Holding Company Act, 15 USCA § 79m(a), where the holding company is in process of liquidation pursuant to Commission order and it is difficult to find suitable persons who would accept the position of a director or officer of a company in process of liquidation, p. 179.

#### *Intercorporate relations, § 19.9 — Affiliated interests — Service companies — Allocation of costs — Liquidation proceedings.*

2. Principles governing the joint use of personnel and officers by affiliated companies and their compensation under § 13 of the Holding Company Act, 15 USCA § 79m, are applicable to costs incurred in proceedings under § 11, 15 USCA § 79k, relating to dissolution and liquidation, p. 181.

[April 11, 1942.]

**A**PPLICATION for exemption from requirements of § 13(a) of the Holding Company Act; temporary exemption granted for transaction involving common officer of related companies.

## RE ACKERS

APPEARANCES: Clayton E. Kline of Doran, Kline, Cosgrove, Jeffrey & Russel, Topeka, Kansas, for D. E. Ackers, Kansas Power and Light Company and North American Light & Power Company; David Schenker of Schenker and Schenker, New York, New York, for North American Light & Power Company; Herman Odell, for the Public Utilities Division of the Commission.

By the COMMISSION:

[1] This matter arises under § 13 (a) of the Public Utility Holding Company Act of 1935, 15 USCA § 79m(a) which provides—

"After April 1, 1936, it shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public utility or mutual service company. This provision shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers."

In Re United Light & P. Service Co. Holding Company Act Release No. 2608, March, 1941, 38 PUR(NS) 120, we held on the basis of our decision in Re Ebasco Services Incorporated (1940) 7 SEC 1056, 35 PUR

(NS) 258, that § 13(a) prohibits common officers of a holding company and subsidiary operating company from receiving compensation from both companies and that such common officers must sever their connection with one company or the other or have their entire salaries paid by the holding company.

Kansas Power and Light Company, a public utility company, is a subsidiary of North American Light & Power Company (hereinafter referred to as Light & Power), a registered holding company. D. E. Ackers, president of Kansas Power and Light Company, became president of Light & Power in March of 1942. It is proposed that Ackers will continue to act as president of Kansas Power and that he will continue to receive from Kansas Power his present salary as president. The amount to be paid by Kansas Power and Light Company, however, will be subject to reduction by the amount of compensation he will receive from Light & Power on a per diem basis for time expended. It is plain, under the United Light & Power Decision above referred to, that the proposed transaction, unless exempted, violates § 13(a) of the act. Accordingly, the foregoing parties have joined in an application for an exemption from the provisions of § 13 (a) of the act. A hearing has been held with respect to said application and we find the record reveals the following facts and circumstances:

Light & Power is a subsidiary of the North American Company, a registered holding company, which owns 62.4 per cent of the debentures, 43.7 per cent of the preferred stock, and 85 per cent of the common stock of

## SECURITIES AND EXCHANGE COMMISSION

Light & Power. On December 30, 1941 we entered an order requiring that Light & Power be liquidated and in our findings and opinion we pointed out that in the liquidation of Light & Power, certain questions might be raised as to the treatment of the North American Company's claims as a controlling stockholder owning senior securities in contrast to those of the same class owned by others. Re North American Light & P. Co. Holding Company Act Release No. 3233, 41 PUR(NS) 306. The possible application of various equitable doctrines which might require that the claims of the North American Company be treated differently than those held by outsiders might, of course, create a conflict of interest between the North American Company and other security holders.

Immediately following the entry of our order of December 30, 1941, *supra*, Allen Van Wyck, former president of Light & Power, who was associated with Light & Power since 1933, and certain directors of Light & Power, resigned. The applicants state that some difficulty was encountered in finding suitable persons who would accept the position of a director or officer of a company like Light & Power which was in process of liquidation; that this fact has caused delay to date in the company's taking steps to comply with the Commission's order of liquidation and that to avoid further delay in expediting the liquidation. Edward L. Shea, president of the North American Company, requested Ackers to accept the presidency of Light & Power. Ackers states that he has assumed the presidency of Light &

Power for the sole and specific purpose of consummating the liquidation and that his efforts will be directed exclusively to that end.

Kansas Power and Light Company has been a direct subsidiary of Light & Power and an indirect subsidiary of the North American Company since 1927. Ackers has been associated with Kansas Power and Light Company since 1923, became its president in 1934 and has been a director of Light & Power since May, 1941. Ackers believes that by reason of this background and his general familiarity with the affairs of Light & Power and its subsidiaries, that he will be able to expedite the liquidation of Light & Power and accomplish certain economies otherwise not possible.

Under § 11(c) of the act, 15 USCA § 79k(c), Light & Power has one year within which to comply with our order of liquidation of December 30, 1941, *supra*, subject to extension of time upon a proper showing for an additional period not exceeding one year. Thereafter it is within our discretion to apply to a court to enforce compliance with the order. We believe that the security holders of Light & Power stand to gain from a prompt liquidation of the company. In view of the stated desire of Light & Power's management to proceed immediately with the liquidation—a matter which is primarily within their discretion and control until December 30, 1942—and the apparent delay in doing so which, we are told, has been due to the unsuccessful effort to date in finding successors to the recently resigned directors and officers, we have concluded to grant the requested exemption to

## RE ACKERS

be effective for a period extending to December 30, 1942, the date of expiration of the year for compliance with our order of liquidation. In so doing we make no finding that Ackers or any other nominee of the North American Company should be regarded as free from conflicting interests in presenting plans for North American Light & Power Company. Despite conflicts between the interests of North American and other security holders of North American Light & Power Company, it is its privilege to present such a plan—a privilege which is likewise open to other interested persons.

In granting this exemption, we reserve jurisdiction to pass on the propriety of any allocation of the compensation paid by Light & Power and Kansas Power and Light Company to Ackers. We will also reserve the right to reexamine the transaction here exempted at any time, either upon our motion or upon application of the company.

[2] It appears from the information available in our files<sup>1</sup> that in the past there have been certain arrangements for the joint use of personnel by Light & Power and its officers which may exist today that would constitute a violation of the provisions of § 13. Our disposition of the instant application should not be construed as in any way precluding our examination of such arrangements and requiring such retroactive or prospective adjustments and corrections as may be necessary in light of our previous decisions.

<sup>1</sup> Counsel have stipulated that we may refer to such information for the purpose of disposing of the instant application.

The application does not set forth what statistical, legal, and other assistance Ackers will rely upon in carrying out plans for compliance without order; nor how it is proposed to finance such activities. In that connection we deem it appropriate to state that the principles laid down in the Ebasco and the United Light & Power Cases, *supra*, are applicable—and that the Commission must accordingly require reallocation of any items of expense which may be or may have been charged to subsidiary companies in contravention of those principles. This applies of course to expenses heretofore incurred in the proceedings under §§ 11(b)(1) and 11(b)(2) as well as expenses to be incurred hereafter in connection with the liquidation.

### ORDER

D. E. Ackers, North American Light & Power Company, and Kansas Power and Light Company having filed applications and amendments thereto for exemption from the provisions of § 13(a) of the Public Utility Holding Company Act of 1935 regarding a proposed transaction under which Kansas Power and Light Company will continue to compensate D. E. Ackers while said D. E. Ackers may be president of North American Light & Power Company, drawing compensation from the latter company on a per diem basis for time expended; and

The Commission having given an opportunity for hearing with respect thereto and a hearing having been held after appropriate notice, and the Commission having this day made and filed its findings and opinion herein;

## SECURITIES AND EXCHANGE COMMISSION

It is ordered pursuant to § 13(a) of the act that said transaction under which Kansas Power and Light Company will continue to compensate D. E. Ackers while said D. E. Ackers may be compensated by North American Light & Power Company, as set forth in said applications and amendments thereto, be and is hereby exempted from the provisions of § 13 (a) for a period extending from the

date of this order to December 30, 1942; provided however, that the transaction exempted by this order and any allocation of said compensation thereunder may be reexamined at any time, either upon motion of the Commission or upon application of the company, to insure compliance with present or future requirements of the act, rules and regulations, or orders thereunder, and jurisdiction is hereby reserved for that purpose.

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## FEDERAL POWER COMMISSION

### Re Cabot Gas Corporation

[Docket No. G-227, Opinion No. 74.]

*Service, § 238 — Abandonment — Sale of property — Depletion of gas supply.*

A natural gas company selling gas in interstate commerce for resale for ultimate public consumption should be permitted to abandon service and sell its property to a manufactured gas company, which proposes to continue the service, where the supply of natural gas is depleted to such an extent that continuance of such service is unwarranted.

*Conservation, § 1 — Dissipation of gas reserves — Absence of conservation laws.*

Discussion of the dissipation of natural gas reserves owing largely to the lack of either state or Federal conservation laws regulating the production of natural gas, p. 186.

[April 10, 1942.]

**A**PPLICATION by natural gas company for permission to abandon service and to sell and transfer a portion of its property; granted.

**APPEARANCES:** Fred C. Fernald and Warren F. Rideout, Boston, Mass., for Cabot Gas Corporation, applicant; Edward H. Lange and Joseph S. Rice, for the Commission.

**BY THE COMMISSION:** Cabot Gas Corporation<sup>1</sup> filed an application with the Commission on January 21, 1942, under § 7(b)<sup>2</sup> for permission to sell and transfer that portion of its prop-

<sup>1</sup> Hereinafter sometimes referred to as applicant.

<sup>2</sup> 15 USCA 717f(b); 52 Stat. 824.

**RE CABOT GAS CORPORATION**

erties, and franchises appurtenant to the operation thereof, located in Monroe County, New York, to Rochester Gas and Electric Corporation<sup>8</sup> and to abandon sale and delivery of natural gas to the Rochester Company.

Applicant is incorporated under the laws of the state of New York. It is a wholly owned subsidiary of Godfrey L. Cabot, Inc.,<sup>4</sup> a Massachusetts corporation, which owns natural gas fields, among others, in the states of West Virginia, Pennsylvania, and New York. Applicant produces no natural gas but obtains its entire supply from its parent company.<sup>5</sup> Applicant is engaged in the purchase, transportation, and sale in interstate commerce of natural gas for resale. At the date of hearing in this proceeding applicant sold gas in Monroe county, New York, to only one customer, the Rochester Company.

In October, 1936, the Public Service Commission of the state of New York authorized applicant to construct a 14-inch pipe line, 92 miles through four western New York counties—Allegany, Wyoming, Livingston, and Monroe—to a point near the city limits of Rochester, New York. By an agreement with the Rochester Company in February, 1937, applicant voluntarily confined its sales of natural gas in Monroe county, New York, to the Rochester Company and two industrial companies, Eastman Kodak Company and Ebsary Gypsum Company. In April, 1937, the New York Public Service Commission approved applicant's

<sup>3</sup> Hereinafter sometimes referred to as the Rochester Company.

<sup>4</sup> Hereinafter sometimes referred to as parent company.

agreement with the Rochester Company. Applicant began to curtail deliveries to Eastman Kodak Company late in 1939; on January 6, 1942, it entirely ceased to make deliveries to that company. It had ceased to make deliveries to Ebsary Gypsum Company in May, 1940. By supplemental agreements made in May, 1940, and July, 1941, applicant had also curtailed deliveries to the Rochester Company.

In 1940 the Rochester Company's purchases of natural gas from applicant were 75 per cent less than its purchases in 1939, and at the date of the hearing in this proceeding the rate of delivery by applicant to the Rochester Company was only 25 per cent of deliveries during 1941. In the meantime the Rochester Company had gradually curtailed its resales of natural gas to its industrial customers and as of January 8, 1942, it eliminated all sales of natural gas to industrial customers.

Applicant now proposes wholly to cease deliveries of natural gas to the Rochester Company and to sell to it for \$100,000 all of its property located in Monroe county, New York, consisting of 19.3 miles of pipe line, appurtenant land rights, structures and other property, and franchises from four towns in that county.

Upon applicant's petition in July, 1941, for permission to make such sale to the Rochester Company, the New York Public Service Commission issued an order in December approving the proposed sale. The Rochester Company joined in the petition. The

<sup>6</sup> Purchases are made under the following rate schedules: Godfrey L. Cabot, Inc. Rate Schedule FPC No. 1, dated July 21, 1936, and Supplement No. 7 thereto, dated November 18, 1941.

## FEDERAL POWER COMMISSION

New York Commission has extended the authority from time to time.

### Jurisdiction

In the application the right to contest the jurisdiction of this Commission was reserved; but in the hearing counsel for the applicant stated that in view of the recent Supreme Court decision in the Illinois Natural Gas Case<sup>6</sup> the jurisdiction of the Commission would not be contested. In his brief, counsel for the applicant stated (although the point was not argued) that the proposed transfer of pipe-line facilities "results in no real abandonment of facilities in that Rochester Gas and Electric Corporation will furnish artificial gas to its present domestic and commercial consumers who have heretofore used natural gas."<sup>7</sup>

Applicant's pipe line connects at its southern end at the Pennsylvania-New York state line with a pipe line owned by its parent company which extends approximately one-half mile into the state of Pennsylvania. At that point the parent company's pipe line in turn connects with the parent company's system which interconnects all of its gas fields in northern Pennsylvania and southwestern New York. Natural gas from the parent company's wells in New York state flows through the system into northern Pennsylvania where it is commingled with natural gas produced in Pennsylvania. Such natural gas enters applicant's pipe line and is

transported to Monroe county, New York. The natural gas delivered by applicant to the Rochester Company in Monroe county, New York, is thus produced in New York and Pennsylvania, commingled in Pennsylvania, and transported without interruption from the pipe line of the parent company in Pennsylvania.

### *Depletion of Natural Gas Supply*

The record in this proceeding contains convincing evidence of the depletion of the parent company's natural gas fields in northern Pennsylvania and southwestern New York. There has been a steady decline in production from such area since 1938.<sup>8</sup> Although the parent company purchased all that was available to it from production by others in this area, its purchases also were drastically reduced after 1939.<sup>9</sup>

Both the applicant and its parent company have recognized the advancing depletion of the gas fields in this area during the past two or three years, and have used every reasonable effort to increase production in this area but with only negligible results. Exploratory and test drilling has been carried on systematically in this area since 1938. In 1938, 11 wells were drilled—9 producers, 2 dry holes. In 1939, 29 wells were drilled; 18 were dry holes; and 3 producing wells were purchased. In 1940, 13 wells were drilled of which 10 were dry holes; and 5 wells were purchased. In 1941, 4 wells were

<sup>6</sup> Illinois Nat. Gas Co. v. Central Illinois Pub. Service Co. (1942) 314 US 498, 86 L ed —, 42 PUR(NS) 53, 62 S Ct 384.

<sup>7</sup> Applicant's Brief, page 2.

<sup>8</sup> The parent company produced from its own fields in the Pennsylvania-New York area the following amounts in the following years:

	M Cu. Ft.
1938 .....	9,623,366
1939 .....	9,016,451
1940 .....	2,223,366
1941 .....	1,190,266

<sup>9</sup> The amounts purchased were:

	M Cu. Ft.
1939 .....	1,461,908
1940 .....	220,676
1941 .....	216,225

## RE CABOT GAS CORPORATION

drilled, only one was a producer; and one well was purchased. The total cost of this 4-year drilling and purchase program was \$806,000.

One of the applicant's vice presidents who has charge of operations testified that the parent company had explored all the areas that have been mapped as geological structures, has had very little success in the past three years, and that wells drilled now in any of these fields would never pay the cost of drilling. He also testified that the parent company has taken all measures in common use by experienced operators which are calculated to keep existing wells at the highest state of production. Older wells have been bailed out. Where it seemed advantageous, a shell of nitroglycerine has been exploded in the well to loosen up the sand structure. Acidizing has also been practiced. During the past year, the parent company has surrendered a great many leases in this area after exhaustive testing proved the area to be of no value. It has not been possible to obtain new leases in proved fields in this area. The experience of other operators in this area parallels that of the parent company in the depletion of the supply of natural gas. Most of the fields in this area have been completely drilled and the areas held by the parent company have been almost completely drained.

It is not possible to buy larger supplies of natural gas from other producers in this area. During the hearing in this proceeding the parent company approached all of the other companies which operate wells in this area and sought to negotiate the purchase of additional gas. None of the companies had any gas to spare regardless

of price. Several of the other producing companies would have been glad to purchase rather than sell gas.

The testimony is clear and unequivocal that the applicant and its parent company have exhausted all reasonable efforts without success to maintain and increase the production of natural gas in the Pennsylvania-New York area and have failed in their effort to obtain increased supplies by purchase.

The parent company produces natural gas in West Virginia but does not have any pipe-line connection between its West Virginia fields and those in the Pennsylvania-New York area, a distance of approximately 300 miles. The cost of building such a line would be about \$5,000,000, which would be unwarranted under existing conditions. Some years ago the parent company made unsuccessful efforts to obtain the use of other pipe lines running between West Virginia and its Pennsylvania-New York fields to transport some of the natural gas which is produced in West Virginia to its Pennsylvania-New York system. Recent inquiries indicate that pipe-line capacities for such transportation are not now adequate or available.

### *Public Convenience and Necessity*

The only customer of applicant affected by this abandonment of natural gas service would be the Rochester Company; but it has foreseen this inevitable cessation of natural gas supply for several years and prepared against this time. It has gradually shifted its industrial customers to other fuels than natural gas and has gradually increased its capacity to produce artificial gas.

Using the pipe-line facilities which it will buy from applicant, and the ap-

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purtenant property and franchises, it will continue to serve all of its customers in Monroe county, New York, with manufactured instead of natural gas. Only minor construction of connecting lines appears necessary to enable the Rochester Company to render artificial gas service to all the towns and consumers, which have been getting natural gas from it.

Without the use of applicant's pipe line in Monroe county, the Rochester Company would not have the facilities necessary to serve the southern part of Monroe county with artificial gas when natural gas is no longer available. The Rochester Company is the only possible source of supply of manufactured gas for the southern part of the county. It has agreed to render that service and has constructed some of the necessary connections.

The very considerable investment which its customers have made in gas equipment, such as ranges, water heaters, refrigerators, and other appliances, would be lost if manufactured gas service was not available when natural gas service ceases. The Rochester Company has shown its sense of obligation to continue to serve with manufactured gas and is ready, willing, and able to furnish manufactured gas with the minimum of interruption and inconvenience to its customers upon the consummation of the proposed transfer. The necessary franchises for the towns involved have been obtained.

Applicant's pipe line in Monroe county will become with little additional use of critical pipe an integral part of the Rochester Company's county-wide distribution system. It will also operate as a supplemental storage facility for manufactured gas.

In the light of the record herein, the available supply of natural gas to applicant does not warrant continuance of the operation of the facilities for natural gas service in Monroe county, New York, proposed to be abandoned by transfer to Rochester Gas and Electric Corporation. However, it is of significance to note that the manner in which the natural gas reserves in the New York-Pennsylvania gas fields were dissipated was due, largely, to the lack of either state or Federal conservation laws regulating the production of natural gas in said states.

It is apparent that the construction and operation of the 92-mile 14-inch transmission pipe line was an improvident venture on the part of the Cabot Gas Corporation. This is evident, particularly, in view of the limited service of natural gas that applicant was permitted to supply in the counties traversed by said pipe line in the state of New York.

Commissioner M. C. Burritt of the New York Commission, in his opinion dated August 6, 1936, opposed the construction of applicant's 14-inch pipe line, a part of which is now proposed to be abandoned. His opposition was based upon "*the adverse effect on the public of the dissipation of the reserves of natural gas for unnecessary and low-grade fuel purposes.*" (Italics supplied.)

Although the New York Commission, by its order of November 25, 1936, permitted construction of the line, the Chairman and one of the other two Commissioners who approved of the said construction, submitted memoranda in which they expressed regret of the fact that such dissipation of the reserves was not preventable,

## RE CABOT GAS CORPORATION

because of the lack of conservation laws in either state. And Commissioner Burritt was further of the opinion that the obvious motive behind the application to construct this pipe line was to find a suitably large and immediate market for the gas which the parent company of the petitioner had available from its leased acreage and gas wells in northern Pennsylvania and southern New York. In summarizing the evidence on the source of supply, he concluded: ". . . it appears that the known reserves based on proven fields are in the neighborhood of 150,000,000 thousand cubic feet; that at the present rate of withdrawal of 35,000,000 thousand cubic feet yearly, *this supply will last only a little more than four years.*" (Italics supplied.)\*

It is reasonable to assume that Godfrey L. Cabot, Inc., knew that the supply of gas from these fields would probably be exhausted within three or four years. This is evidenced by the fact that firm contracts for supplying gas for industrial use were entered into in 1936 and early 1937 by Godfrey L. Cabot, Inc., *for periods not longer than five years*; and the Eastman Kodak Company contract was for a period of *only three years*.

Applicant's witnesses, Cash and Brewer, both testified as to the absence of the existence of conservation laws in New York and Pennsylvania, and Brewer testified as to the absence of such laws in West Virginia. Both admitted the absence of any statutes or regulations limiting the daily production, or allowable withdrawals from gas wells, based upon the open flow of such wells; and the absence of any stat-

utes or regulations, providing for the orderly and ratable taking of gas from producing wells. It is thus apparent that, under the "Law of Capture" which obtains in said states, and in the absence of statutes providing for methods of conserving natural gas, operators of producing acreage have produced the maximum amount of gas from their acreage within a minimum period of time, without consideration as to the life of the fields involved and without consideration as to the total amount of gas that could have been produced if such operations had proceeded in an orderly fashion.

### Findings

1. Notice of this hearing was given by the secretary of the Commission to the governors of the states of New York, Pennsylvania, and West Virginia, to the applicant, the Rochester Company, the Public Service Commissions of New York and West Virginia, and to the Public Utility Commission of Pennsylvania, by forwarding on January 23, 1942, by registered mail, a notice of the pendency of this proceeding and a copy of the Commission's order of January 23, 1942, fixing the date of public hearing in this proceeding. On January 27, 1942, the hearing order was published in the Federal Register at page 555. A copy of such notices and registry return receipts on such mailings were incorporated by reference into the record of this proceeding. No representative of any state Commission appeared.

2. Applicant uses its pipe line to transport and sell natural gas in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial, or other use within

\* For decision of New York Commission see (1936) 16 PUR(NS) 443, 466, 477.

## FEDERAL POWER COMMISSION

the meaning of § 1(b) of the Natural Gas Act, 15 USCA § 717(b), applicant is a natural gas company within the meaning of § 2(6) of the act, 15 USCA § 717a(6).

3. The facilities proposed to be transferred by means of which applicant renders natural gas service to the Rochester Company are subject to the jurisdiction of this Commission within the meaning of § 7(b) of the act.

4. The proposed sale and transfer to the Rochester Company by applicant of its pipe line, appurtenant property and franchises will constitute an abandonment of facilities and service within the meaning of § 7(b) of the act, 15 USCA § 717f(b).

5. The supply of natural gas available to the parent company in northern Pennsylvania and southwestern New York is depleted to a point where it can scarcely meet its obligations to applicant and to others in that area to deliver gas in the remaining months of 1942. No means of transporting any of its gas from West Virginia to its Pennsylvania-New York market is

presently available to the parent company.

6. The supply of natural gas available to applicant is depleted to such an extent that the continuance of natural gas service to the Rochester Company is unwarranted.

An order will be entered in accordance with this opinion.

### ORDER

Upon consideration of the application filed January 21, 1942, by Cabot Gas Corporation under § 7(b) of the Natural Gas Act, *supra*, the evidence of record, the briefs filed, and having on this date made and entered its Opinion No. 74, which opinion and findings are hereby incorporated by reference and made a part hereof;

The Commission orders that: Cabot Gas Corporation be and it is hereby authorized to abandon its natural gas pipe line and other property located in Monroe county, New York, by sale and transfer to the Rochester Gas and Electric Corporation as set forth in its application.

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## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Re C. F. Jackson

[Special Permission No. 20570.]

#### Rates, § 425 — Motor carrier increase.

Certified common carriers of freight by motor vehicle were permitted to file revised schedules, to become effective upon less than statutory notice, establishing the same increase for the transportation of intrastate shipments as allowed by the Interstate Commerce Commission for interstate traffic, where the interstate increase was granted following extensive hear-

## RE JACKSON

ings and it was contemplated that the increase would extend to intrastate shipments.

(BUCHANAN, Commissioner, dissents.)

[March 23, 1942.]

### PETITION for authority to increase intrastate rates of motor carriers; granted.

By the COMMISSION: A petition, with amendment, has been presented by C. F. Jackson, agent, for and on behalf of certificated common carriers of freight by motor vehicle, for permission to file revised schedules to become effective upon less than the usual thirty days' notice, establishing the same increase for the transportation of intrastate shipments as was allowed by the Interstate Commerce Commission for interstate traffic in connection with the proceeding conducted at Ex Parte No. 148. The petition includes a prayer that tariff rules be waived to permit the filing of simplified tariffs.

The motor carriers urge that favorable consideration be given to the request in view of the pressing need for increased revenues in order to permit continued economical operation, to preserve stability of motor carrier rates and to avoid confusion among both shippers and carriers resulting from different bases of rates affecting inter- and intra-state commerce.

The increase in interstate motor rates was granted by the Interstate Commerce Commission following extensive hearings and it was contemplated that the increase would extend to intrastate shipments. Permission to apply similar advances to intrastate

railroad freight rates has already been granted.

The authorization should however be limited to transportation over regularly established interurban routes and not be applicable to local service; therefore,

Now, to wit, March 23, 1942, it is ordered:

1. That certificated common carriers of freight by motor vehicle in the Commonwealth of Pennsylvania be and are hereby permitted to apply to shipments moving over regularly established interurban routes the same increases in rates and charges as were authorized for said transportation in Ex Parte No. 148.

2. That such increases shall not be applied to rates for local service, nor for the transportation of unprepared or condemned coal from mines to breakers.

3. That the increases may be made effective on one day's notice by the filing of regular tariffs or supplements or by means of a master conversion table and connecting supplements in the manner allowed by Special Permission Nos. M-29800 and M-29801 of the Interstate Commerce Commission.

4. That this permission does not authorize the filing of tariffs or supplements in addition to, or other than

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

those referred to herein and that it shall be void as authority for filing after May 5, 1942.

5. That, unless otherwise ordered, said increases in rates and fares shall expire six months after the termination of the present war.

6. That tariffs and supplements issued under this authority shall show the following:

"Effective upon less than thirty days' Notice by Special Permission of the Pennsylvania Public Utility Commission No. 20570 of March 23, 1942."

BUCHANAN, Commissioner, dissenting: I object to any increase in motor truck freight rates in order to preserve the so-called "parity" with rail freight rates.

Cost of service is the only proper

basis for rate making. The action in relating truck rates to rail rates completely destroys that basis and leads to the dangerous inflationary spiral every sane person wishes to avoid.

Indeed, relating rates on a basis of "parity" is in itself the most dangerous kind of inflation because it ignores reason and justice and preserves every arbitrary condition.

In particular, I object to any increase in motor freight rates on food, clothing, wearing apparel, agricultural products, and similar commodities which relate to the necessities of life unless and until there is definitely shown deficiencies in revenues on the part of the motor truck operators. Not even the slightest attempt has been made to show any such deficiency in revenues in this instance.

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## OHIO SUPREME COURT

### Penn-Ohio Coach Lines Company

v.

### Public Utilities Commission of Ohio

[No. 28904.]

(— Ohio St —, 39 NE(2d) 745.)

*Appeal and review, § 9 — Right to review — Interlocutory order.*

Appeal cannot be taken from Commission action granting a certificate, where the Commission placed the order in the file, failed to enter the order in its journal, failed to issue the certificate, heard additional evidence, and where

PENN-OHIO COACH LINES CO. v. PUBLIC UTIL. COM. OF OHIO

no service was ever rendered under such certificate, since no final order had been entered from which appeal could be taken.

[February 4, 1942.]

**A**PEAL from action granting certificate but failing to enter relevant order; dismissed.

The Public Utilities Commission moved to dismiss this appeal "for the reason that such appeal is premature in that in the proceeding before appellee Commission from which such appeal is taken there has been entered no order, either final or otherwise, on the journal of such Commission upon which the right to appeal can be predicated."

An agreed statement contains these facts:

Week-End, Inc., filed an application for a certificate of public convenience and necessity to transport passengers between Akron and Shaker Heights, Ohio, over a properly described route.

On June 19 and 20, 1941, the application was heard by an attorney examiner for the Public Utilities Commission. Penn-Ohio Coach Lines Company, holder of a certificate authorizing motor bus operation between Cleveland and Akron serving the terminal points of Akron and Shaker Heights, appeared at the hearing and protested against granting a certificate to Week-End, Inc. On August 6, 1941, the attorney examiner recommended that the application be granted.

The Commission made an order, signed by all three Commissioners,

granting to Week-End, Inc., the unrestricted and unconditioned right to transport passengers between Akron and Shaker Heights, which order, dated September 30, 1941, was not journalized or released but was kept in the files and records of the Commission from that date. No certificate of public convenience and necessity predicated thereon was issued to and no operation between those cities was instituted by Week-End, Inc.

On September 24, 1941, Penn-Ohio Coach Lines Company filed a petition requesting that the proceeding be reopened for oral argument before the Commission.

On October 23, 1941, arguments by counsel representing applicant and protestant were heard by the Commission, which made no new order as a result of such arguments.

On October 29, 1941, the Penn-Ohio Coach Lines Company filed with the Commission a petition for rehearing, which was not ruled upon by the Commission.

On November 26, 1941, that company filed an appeal to this court.

Thereafter, Week-End, Inc., filed with the Commission a motion to open the proceedings for the purpose of introducing new evidence. The Penn-

## OHIO SUPREME COURT

Ohio Coach Lines Company moved to strike that motion from the files on the ground that the Commission had lost jurisdiction by reason of the appeal to this court. The Commission overruled the motion to strike and on December 22, 1941, reopened the proceeding and received additional evidence offered in behalf of Week-End, Inc.

APPEARANCES: Norman A. Emery and Harrington, Huxley & Smith, all of Youngstown, and R. G. Jeter, of Akron, for appellant; Thomas J. Herbert, Attorney General, and Kenneth L. Sater, of Columbus, for appellee.

By the COURT: Section 496, General Code, requires the secretary of the Public Utilities Commission to keep a full and complete record of all proceedings of the Commission.

Section 544, General Code, provides that a *final order* made by the Commission may be reversed, vacated or modified by this court on appeal, if upon consideration of the record this court is of the opinion that such order was unlawful or unreasonable.

Section 547, General Code, bars such appeal "unless . . . filed within

sixty days after the entry of the *final order* complained of upon the journal of the Commission." (Italics ours.)

This court has held that an oral announcement or placing in the files of a signed memorandum granting a certificate and stating when it should take effect, does not bar the Commission from making further investigation or from modifying such memorandum before entering a final order upon its journal and issuing a certificate. *Interstate Motor Transit Co. v. Public Utilities Commission* (1928) 119 Ohio St 264, PUR1929B 521, 163 NE 713, paragraph 2 of the syllabus. See, also, *Pensylvania R. Co. v. Public Utilities Commission*, 123 Ohio St 203, PUR1931C 201, 174 NE 737.

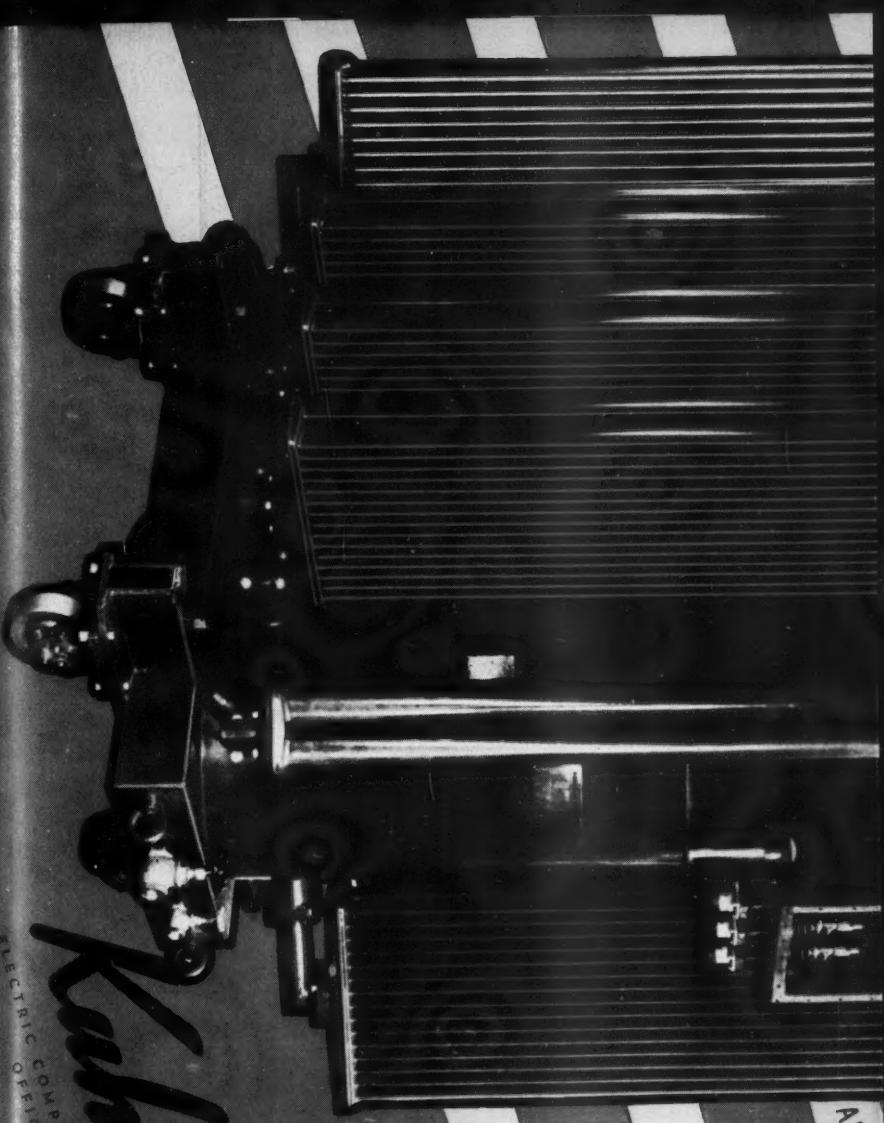
No final order has been entered by the Commission on its journal. That is apparent from an examination of the stipulated facts.

The motion is sustained and the appeal dismissed.

Appeal dismissed.

Weygandt, C. J., and Turner, Williams, Matthias, Hart, Zimmerman, and Bettman, JJ., concur.

*Kahlman*  
ELECTRIC OFFICE  
COMPANY, BAY CITIES  
BAY CITY, MICHIGAN



COMPLETE FACTS.

WRITE TODAY FOR

ALL RUGGED

KUHLMAN POWER TRANSFORMERS ARE.

CORES AND COILS ARE EFFECTIVELY  
BUILT TO STAND UP ON THE JOB.

END COILS ARE  
DIELECTRIC FAILURE.

HEAVY INSULATION PREVENTS SURGE POTENTIALS.

BRACED.

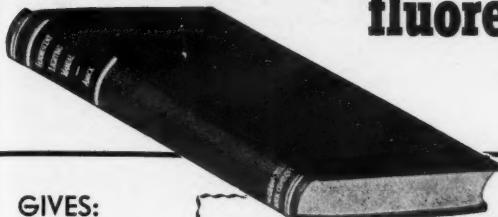
REINFORCED AGAINST SURGE POTENTIALS.

TAP CHANGERS, TAP LEADS,

FRAME AND CASE ARE

BUILT.

# How to design, install, and service fluorescent-lighting systems



## GIVES:

Manufacturers

Contractors

Dealers

Installers

Users

The greater understanding of fluorescent lighting that will point the way to more effective installations and maximum customer satisfaction.

## PRACTICAL

A number of actual installations of many types, in factories, drafting rooms, offices, stores, homes, theaters, etc., are pictured in this manual, with brief data, to indicate the scope of fluorescent-lighting application and suggest means of meeting specific illuminating problems.

Make sure you get the extra profits promised by the growing popularity of fluorescent lighting. Here is a practical manual covering the subject in all its aspects, presented so that anyone can understand it, with or without much electrical training. Gives the most authoritative information available on construction and performance of all types of fluorescent lamps, principles and methods of calculating illuminating requirements and designing luminaires and installations, pointers and methods of installing and maintaining fluorescent lamps and of locating and remedying

their troubles. Includes working data, comparison of cost factors of fluorescent and incandescent lighting, etc.—everything to aid in the designing, selling, installing, and servicing of efficient and satisfactory fluorescent-lighting systems.

**JUST  
PUBLISHED!**

# FLUORESCENT LIGHTING MANUAL

By Charles L. Amick

Nela Park Engineering Department  
General Electric Company

312 pages, 6 x 9, 217

Illustrations, many tables, \$3.00

These 10 chapters give you a working knowledge of fluorescent lighting and its application

1. The Fluorescent Lamp
2. Auxiliary Equipment
3. Operating Characteristics
4. Installation Hints
5. Service Suggestions
6. Luminaire Selection
7. Fluorescent-lighting Design
8. Color Quality
9. Fluorescent Applications
10. Lighting Economics

Besides giving a how-to-do-it cast to all information presented, the author emphasizes its meaning from the standpoint of answering doubts or questions regarding the value of using fluorescent lighting. From this book both newcomers to the lighting industry and more experienced readers will get an overall picture of every link in the fluorescent lighting chain and an appreciation of the importance of each, as well as instructions in the methods of design, installation and servicing.

## USE THIS CONVENIENT ORDER COUPON

PUBLIC UTILITIES FORTNIGHTLY  
Munsey Building, Washington, D. C.

Send me a copy of Amick's FLUORESCENT LIGHTING MANUAL postpaid. I enclose \$3.00 in  check,  money order,  cash.

Name .....

Address .....

City and State .....



June 18, 1942



R

# Industrial Progress

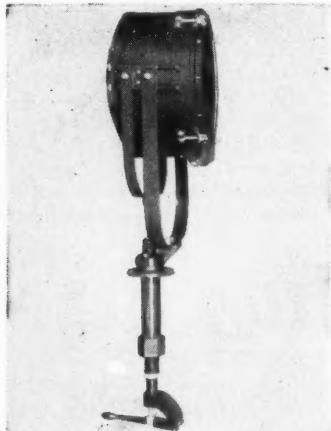
*Selected information about manufacturers, new products, and new methods. Also news on utility expansion programs, personnel changes, recent and coming events.*

## Equipment Notes

### New 18-Inch Searchlight

A new 18-inch incandescent searchlight with pilot house control or flat base, is announced by the Westinghouse Lighting Division, Cleveland, Ohio.

Intense beam concentration is obtained by a primary precision-ground and polished silvered-glass reflector and a metal secondary reflector to permit continuous operation with lamps up to and including 1500 watts. A tandem reflector shield, mounted in the center of the primary reflector eliminates all secondary



New Searchlight Features Intense Beam

heat concentration on the lamp bulb. Heat dissipation is by radiation, permitting a dust-tight enclosure.

The lens is of heat and impact resisting polished glass mounted against a weather-tight gasket and held in position by steel spring clips. Primary reflector is a 19-inch parabolic

commercial-precision mirror coated with silver and sealed by an electrolytic coating of copper and synthetic material. Secondary reflector is of polished metal too and provides high reflectivity.

The body is supported in a steel bow with locking handles to position the luminaire at any fixed elevation and rotation. Socket assembly is the standard mogul bipost-type rated 50 amperes, 600 volts. It is normally fixed in position but is independently adjustable for elevation and rotation.

All castings and sheet parts are finished with one coat of red lead oxide and two of weather-proof green paint. Hardware is galvanized or plated.

### General Utility Sealing Compound

Duxseal, a non-hardening adhesive sealing and caulking compound suitable for a wide range of uses, is announced by Johns-Manville, New York. Used like putty, just as it comes from the package, the compound, it is stated, sticks readily to any clean surface without slumping, flowing, or hardening in service. It is insoluble in water, unaffected by ordinary gases and condensates, and will not hurt the hands.

Duxseal was originally developed by Johns-Manville for the electric power and telephone companies to seal openings in ducts carrying electrical conductors. Its usefulness, however, says the company, led to its general adoption by electricians, maintenance engineers, mechanics and plumbers.

Three additional sealing compounds, similar in appearance and general characteristics, but differing in consistency and certain individual properties, have also been added. Pakseal is designed for service where greater stiffness and rigidity are required; Transoseal, for service requiring resistance to refined oils; and Nodrseal, for use in food storage and refrigerators.

A four-page folder describing Duxseal and the other compounds has just been issued. Copies may be secured from Johns-Manville, 22 East 40th Street, New York, by asking for Form EL-19A.

### Insulation and Breakdown Tester

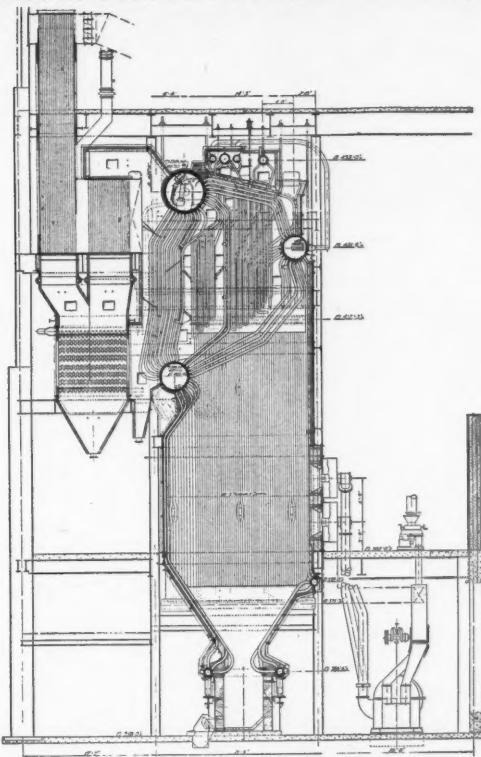
An Insulation and Breakdown tester (Model 520) announced by the Superior Instruments Co., 227 Fulton St., New York, N. Y., features a super-sensitive danger indicator which lights up to indicate leakage up to 1,000 megohms, (1,000,000,000 Ohms). Four voltage sources are available—250, 500, 1,000 and

**DICKE TOOL CO., Inc.**  
**OWNERS GROVE, ILL.**  
*Manufacturers of*  
**Pole Line Construction Tools**  
*They're Built for Hard Work*

Mention the FORTNIGHTLY—it identifies your inquiry

# RILEY STEAM GENERATING UNIT

ANOTHER RILEY UNIT  
for  
COMMONWEALTH & SOUTHERN CORPORATION



SOUTHERN INDIANA GAS & ELECTRIC CO., EVANSVILLE, IND.

Commonwealth & Southern Corporation

225,000 lbs. steam/hour, 900 lbs. design pressure 900° F steam temp.

87.5% Efficiency.

Riley Boiler, Superheater, Steam Temperature Control, Economizer,  
Air Heater, Water Cooled Furnace, Steel Clad Insulated Setting.  
Fired by Riley Pulverizers & Burners.

## RILEY STOKER CORPORATION WORCESTER, MASS.

BOSTON NEW YORK PHILADELPHIA PITTSBURGH BUFFALO CLEVELAND DETROIT SEATTLE  
ST. LOUIS CINCINNATI HOUSTON CHICAGO ST. PAUL KANSAS CITY LOS ANGELES ATLANTA

**COMPLETE STEAM GENERATING UNITS**

BOILERS - SUPERHEATERS - AIR HEATERS - ECONOMIZERS - WATER-COOLED FURNACES  
PULVERIZERS - BURNERS - MECHANICAL STOKERS - STEEL-CLAD INSULATED SETTINGS

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**Manufacturers' Notes (Cont'd)**

2,500 volts. No hand-cranking and no adjustments are necessary, according to the manufacturer.



*Compact Tester Offers Safety Features*

The Model 520 will also indicate "shorts" and "opens" and, as a safety feature, includes a jewelled pilot lamp on the front panel which indicates when high voltage is on.

The instrument is housed in a portable carrying case with compartment for test leads and a specially designed cover attached in a jiffy assures complete portability. Operates on any 90 to 125 volt 60 cycle a.c. line. Size 6 in. x 8 in. x 4½ in. Price, \$14.85.

**New All-Purpose Utility Vehicle**

Four new Dodge Job-Rated 1-1½-ton tractor, semi-trailer units recently have been put in operation by the Florida Power Corp., St. Petersburg, Fla. The new vehicles are believed to be the first of their kind in this type of service in the United States.

Ample space for carrying adequate materials and equipment and power units for pole setting are provided in the new units. An enclosed compartment in the forward part of the trailer protects the crew members from the weather

**34.5-KV Gas-Filled Cable**

As one means of protecting power it is supplying to an important war production plant, a midwestern utility company plans to install 40,000 ft. of gas-filled cable of a higher voltage rating than any used heretofore. It will be of the three-conductor type for 34.5-kv service and will be furnished by the General Electric Co. Installation will be underground.

The first installation of gas-filled cable was made in 1938, and was for 15-kv service. Installations for 27-kv were made later, but that is the highest voltage at which gas-filled cable has been operated up to the present, according to the manufacturer.

The cable permits immediate detection of any damage to its lead sheath. Dry nitrogen gas is maintained at a pressure of about 12 lb. inside the sheath. Damage severe enough to cause a leak announces itself at the power station in the form of lowered gas pressure and a visible and audible alarm.

**Glare Barrage To Foil Saboteurs**

Protective lighting in reverse, a new type glare barrage using high-power 1 spotlights to blind would-be saboteurs as they approach restricted zones around war plants was described recently by O. P. Cleaver, Westinghouse lighting engineer at a meeting of the American Society of Safety Engineers.

The new system, which employs special beacons developed by Westinghouse engineers, makes it possible for the first time to keep guards and buildings in comparative darkness while the areas through which saboteurs would have to pass are brilliantly lighted. The glare barrage is already in use at several large eastern war plants.

when they are traveling to and from their work.

The fifth wheel of this tractor, semi-trailer assembly permits detaching the trailer for maximum maneuverability in congested areas. The units also operate with utmost efficiency in rural districts, where hard going is encountered. Couplings on the rear of the semi-trailer permit easy attachment of a pole carrier. The latest safety features have been embodied in the design of these vehicles throughout.



*New Tractor, Semi-trailer Unit With Pole Carrier Attached*

JUNE 18, 1942

# When jobs are tough— and time is short—



## "Cleveland's" National Defense Cooperation Is 2-Fold

**1st**—By supplying its equipment for a majority of recent Defense Pipelines and for various branches of the United States Military and Naval Services.

**2nd**—By its distinctive design which permits important weight savings, releasing vitally needed steel for armament, tanks, ships, etc. **IT IS ESTIMATED THAT OVER 1000 TONS OF STEEL WERE THUS SAVED IN 1941—**

On a weight comparison basis against the older, heavier, and bulkier type of machine which "Cleveland's" displace.

**P**OWER, ruggedness and speed are concentrated in "Cleveland's" in a smaller, more mobile, more easily-handled "package," because of sound, modern design coupled with thorough usage of the toughest, longest wearing materials in the market.

This explains why "Cleveland's" continue to be the preferred equipment on so many projects, current and recent, where rough, mountainous terrain and severe soil conditions are encountered.



**THE CLEVELAND TRENCHER COMPANY**

20100 ST. CLAIR AVE.

Pioneer of the Small Trencher

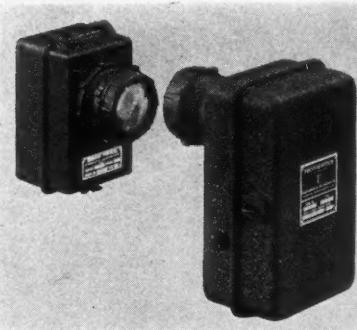
CLEVELAND, OHIO



**"CLEVELAND'S" Save More... Because they Do More**

**Equipment Notes (Cont'd.)****Photoelectric Unit for Plant Protection**

Photoswitch Incorporated, Cambridge, Mass., announces an addition to their line of photo-electric protective systems, Type A28L Control for outdoor and indoor use over very long ranges.

**Long-Range Burglar Alarm**

The light source projects a practically invisible light beam for distances of 350 to 700 ft. and it is possible to completely surround power plants and other vital areas. If the light beam is broken by intruders or saboteurs, the photo-electric control contacts close, thereby sounding alarms, operating a central station system, turning on flood lights, closing gates, etc.

The photoswitch is unaffected by changes in local light and is designed to operate 24 hours

**Catalogs and Bulletins****Useful Priority Booklet**

Manning, Maxwell & Moore, Inc., Bridgeport, Conn., makers of pressure gauges, safety valves, industrial thermometers, and globe valves, are distributing a new booklet entitled, "Priorities Mobilize Production for Victory."

This is a useful 16-page booklet explaining priorities and how to understand and use them. It has been prepared by this company and published in an effort to assist their jobbers and their salesmen and customers.

The booklet covers such topics as "Prin-

ciples of the Priority System," "Securement of Materials for Manufacture," "The Acceptance of Orders," "Securing and Extending of Priority Ratings," "Scheduling Production and Delivery," "Form PD-1-X for Distributors," "Adjusting Inventory," and reproductions of different types of forms and certificates to be used by jobbers or customers of Manning, Maxwell & Moore.

**Safety Equipment**

Safety equipment manufactured by the Mine Safety Appliance Co., Pittsburgh, Pa., is described in Bulletin No. G-5, recently issued by the manufacturer.

**Publications Describe G-E Equipment**

Recent G-E Publications includes the following:

No. 1799 *Varnished-Cambric Cable*. A 12-page illustrated booklet (GEA-2623A), showing how this new cable is made, advantages in use and helpful operating data.

*Outdoor Oil-Blast Circuit Breaker Type FK-339*, 15,000 to 46,000 volts, bulletin GEA-1642C; and 69,000 to 230,000 volts, bulletin GEA-3168A.

*Coronal (R-351) The Ozone-Resistant Cable*. This bulletin tells all about Coronal, and illustrates its uses for station cable and for aerial cable.

*G-E Air-Cooled Transformers* (600 volt and above). An 8-page illustrated booklet (GEA-3714), describing the design, construction and advantages of this type of transformer.

*Complete Metal-Enclosed Switchgear Equipment* are shown in this 12-page bulletin, (GEA-3742) assembled at the factory and received at the power station ready to install.

*G-E Ground-Fault Neutralizer*, a 16-page booklet (GEA-2841A) which tells how this neutralizer wipes the trouble off the line without tripping of circuits.

*Type AK-1 Hook-on A.C. Volt-Ammeter*. This folder (GES-2906) shows the advantages of this 6-in-1 instrument which has 4 current and 2 voltage ranges.

**Manufacturers' Notes****IBM Aids War Bond Campaign**

To support the national campaign of the United States Treasury Department to sell U. S. War Savings Bonds and Stamps, the International Business Machines Corporation has arranged for its seventy-eight offices located throughout the country and its factories in several cities to provide information and sell stamps and bonds to the public, according to an announcement by Thomas J. Watson, IBM president.

Previously, employees of IBM have participated in the Government voluntary payroll deduction plan, setting aside a percentage of their salary toward the purchase of bonds.

**70 MASTER-LIGHTS**

- Electric Portable Hand Lights.
- Repair Car Spot and Searchlights.
- Emergency (Battery) Floodlights.

**CARPENTER MFG. CO.**  
179 Sidney St., Cambridge, Mass.  
**MASTER-LIGHT MAKERS**

*Mention the FORTNIGHTLY—It identifies your inquiry*

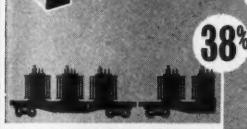
"I am interested these days in just one thing — getting the most war production we can possibly get, and getting it in the shortest space of time."

—DONALD NELSON

# Pennsylvania delivers!



# AHEAD OF SCHEDULE



Percent of completed orders  
shipped ahead of schedule.

MEETING deliveries has always been Pennsylvania's creed. But that was before Pearl Harbor! Today we're out to beat delivery promises — to make shipments *ahead of schedule* wherever possible. ¶ Witness the chart below — it's an indication of how we are answering the urgent call for speed — and more speed! ¶ Pennsylvania is rightly proud of this record. It is the result of vastly improved facilities, increased personnel, thorough coordination among all departments, and the *will to win* that is in the heart of every Pennsylvania worker!

SOME RECENT ORDERS SHIPPED AHEAD OF SCHEDULE

Number	KVA	DAYS AHEAD
4	1000	8
6	500	26
1	5000	25
22	1000	44
4	3000	29
10	1250	8
4	1000	6

# Pennsylvania TRANSFORMER COMPANY

BOB RIDGE AVENUE • N. S. PITTSBURGH, PA.

**Manufacturers' Notes (Cont'd)****Silex Aids In Rubber Drive**

Through its many distributors, The Silex Co., Hartford, Conn., is joining in the government drive for old rubber which can be reclaimed for military uses.

Silex distributors are asking commercial users to turn in old, worn-out rubber plugs with the purchase of new ones. The old plugs are sent to the Silex Co. and distributed from there to the proper rubber reclamation sources. Silex users also are urged to use glass rather than metal upper bowls for Silex glass coffee makers, because glass bowls do not cut or scar plug surfaces.

**Conservation Plan Insures Truck Operation**

Keeping vehicles running despite the difficult transportation demands and a shortage of critical materials used in truck parts is the objective of a coöperative two-way plan sponsored by The White Motor Company.

White's plan is a two-fold plan of Preventive Maintenance (P.M.) and Parts Conservation (P.C.).

Under Preventive Maintenance a definite schedule is set up for periodic inspection and servicing of vehicles based on mileage or elapsed time.

Parts Conservation (P.C.) is a new, exclusive White service development especially designed to meet the present situation. The Parts Conservation plan is of interest to all operators because it will insure availability of parts for all, rather than permit unnecessary piling up at unaccessible points. Through White's practical control plan, adequate stocks will be maintained by White branches and distributors for the use of all who show a need.

**Westinghouse To Operate New Navy Plant**

Plans for immediate construction of a \$14,000,000 plant in western Pennsylvania, to produce propulsion equipment for the United States Navy, were disclosed today with the appointment of L. D. Ridgon, of the Westinghouse Electric and Manufacturing Company, as manager of the plant.

F. D. Newbury, vice president in charge of Westinghouse Emergency Products Division, announced that the Company has been selected to build and operate the plant for the Bureau of Ships, Navy Department.

The Stone and Webster Engineering Corporation has been selected as general contractor for the project which will include a one-story manufacturing building and a separate heating plant.

Approximately 600 of the plant's employees will include relatively untrained men and women who will be instructed in machine-tool operations at Westinghouse training courses. A number of such courses are now conducted at the Company's East Pittsburgh works.

**M M & M Employees Send Pledge to General MacArthur**

Some 4,000 war workers of Manning, Maxwell & Moore, Inc., employed at the company's three plants in Bridgeport, Boston, and Muskegon, recently signed a pledge addressed to General Douglas MacArthur to not only meet war needs but to "Make Much More."

The pledge was handed to Rear Admiral W. C. Watts, U.S.N. at a ceremony at the Bridgeport, Conn., plant and is being sent to General MacArthur as a personal pledge from each M. M. & M. employee.

**Transit Advertising Companies Expand**

The Chicago Car Advertising Company whose advertising privileges include the Chicago Rapid Transit Lines, Chicago Motor Coach Company, and the Suburban Railroads of Greater Chicago, and the New York Motor Coach Advertising, Inc., whose advertising properties comprise the New York City Omnibus Corp., Madison Avenue Coach Corp., Eighth Avenue Coach Corp., Comprehensive Omnibus Corp., and the East Side Omnibus Corp., have moved to larger quarters at 500 Fifth Avenue, New York City.

Over 2,000 square feet of space has been rented on the 33rd floor where complete facilities are now available for the servicing of local and national advertising accounts.

Increased activities in the transportation advertising field is responsible for this expansion program.

**G-E Expands Training Program**

General Electric has expanded its training program to teach military men and its own employees how to maintain in the field the great variety of war devices, many of them new and highly technical, which the company is making in vast quantities.

Vice President Roy C. Muir, chairman of the company's education committee, explains that Navy men are being given instruction in the care of submarine propulsion equipment; British and Canadian as well as Army and Navy air men are being taught maintenance of airplane equipment for high altitude flying.

### **BLACKOUTS and other WAR MEASURES DEMAND PROTECTIVE LIGHTING**

### **WHEAT**

**Rechargeable Spotlight**

**KOEHLER MFG. CO. Marlboro. Mass.**

25,000 Beam C.P.  
2,500 Ft. Beam  
12 A.H.—4 Volt  
Weight 6 lbs.  
1,000 Hours  
Battery Life



*Mention the FORTNIGHTLY—It identifies your inquiry*

By Hand you can write **25** Invoices an hour (if you hurry)

With a Typewriter **35** Invoices an hour (some days)

**BUT:**

Every day you can write **75** Invoices an hour with the EGRY SPEED-FEED



In one minute the Egry Speed-Feed converts any typewriter into a practical billing machine. Immediately the daily output of typed forms is sharply increased because all the time of the operator is productive. No more manual inserting of carbons in forms; no jogging into alignment; no removing carbons after forms are written.

But more! The Speed-Feed eliminates the use of wasteful, costly pre-inserted one-time carbons, cut forms, and other out-dated methods. Savings of 2000 boxes of carbon paper and more per year are common among Speed-Feed users.

In these days when speed in office routine must match accelerated production tempo, the Egry Speed-Feed (which costs less than 3c per day for only one year) is indispensable. Demonstrations on request without cost or obligation. Consult classified directory for name of local Egry sales agent. Literature on request. Address Dept. F-618.

## The EGRY REGISTER Company Dayton, Ohio

SALES AGENCIES IN ALL PRINCIPAL CITIES

The Egry Register Co. (Canada) Ltd., King and Dufferin Streets, Toronto, Ontario, Canada

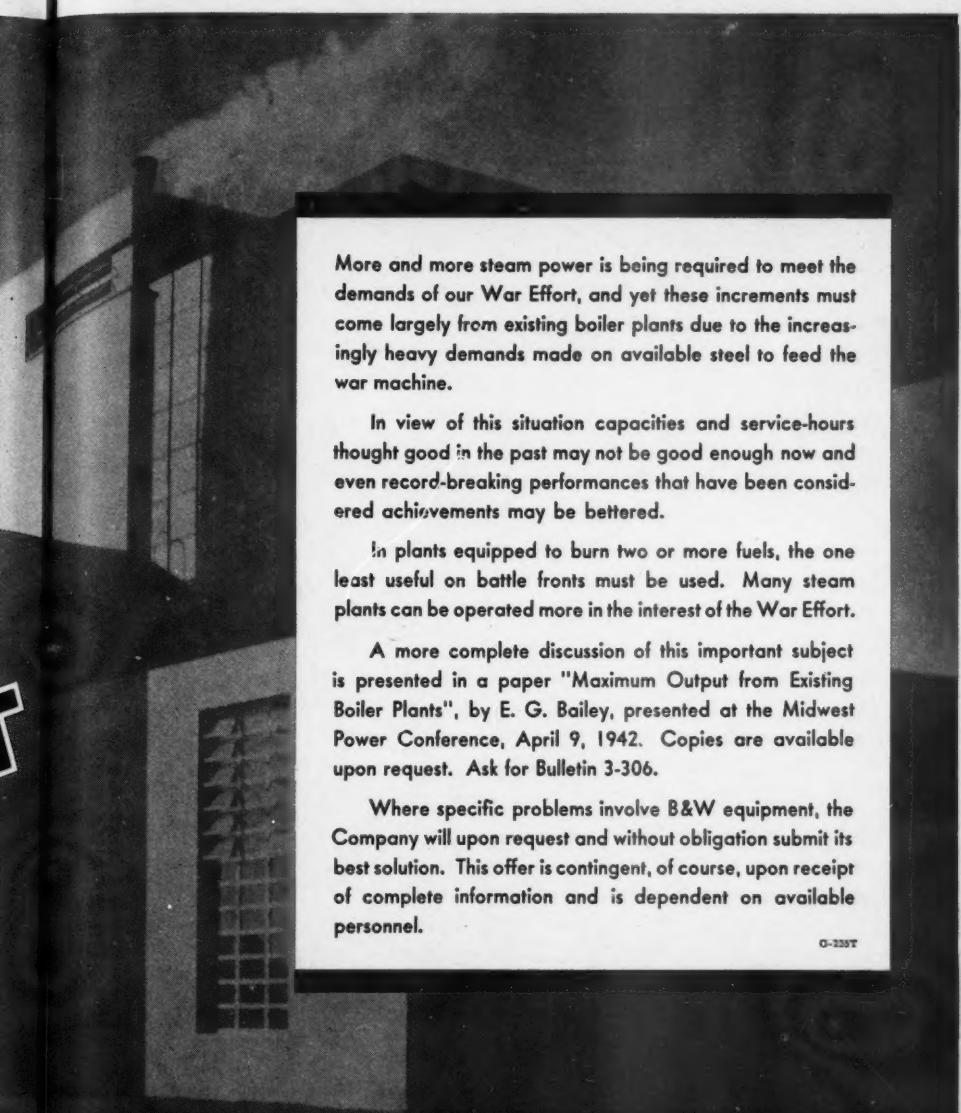
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**MORE STEAM  
from  
Existing  
Equipment**

**THE BABCOCK & WILCOX CO.,**

**BABCOCK**



More and more steam power is being required to meet the demands of our War Effort, and yet these increments must come largely from existing boiler plants due to the increasingly heavy demands made on available steel to feed the war machine.

In view of this situation capacities and service-hours thought good in the past may not be good enough now and even record-breaking performances that have been considered achievements may be bettered.

In plants equipped to burn two or more fuels, the one least useful on battle fronts must be used. Many steam plants can be operated more in the interest of the War Effort.

A more complete discussion of this important subject is presented in a paper "Maximum Output from Existing Boiler Plants", by E. G. Bailey, presented at the Midwest Power Conference, April 9, 1942. Copies are available upon request. Ask for Bulletin 3-306.

Where specific problems involve B&W equipment, the Company will upon request and without obligation submit its best solution. This offer is contingent, of course, upon receipt of complete information and is dependent on available personnel.

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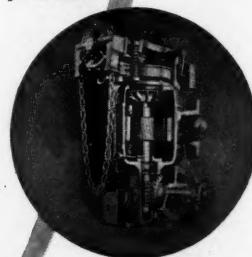
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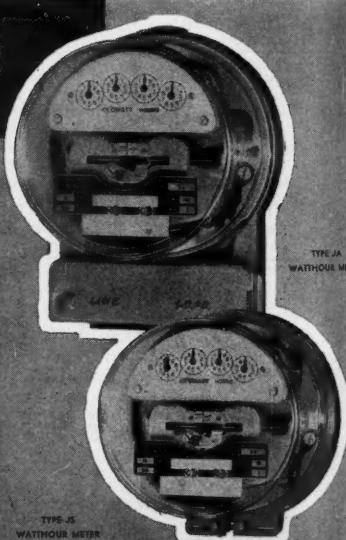
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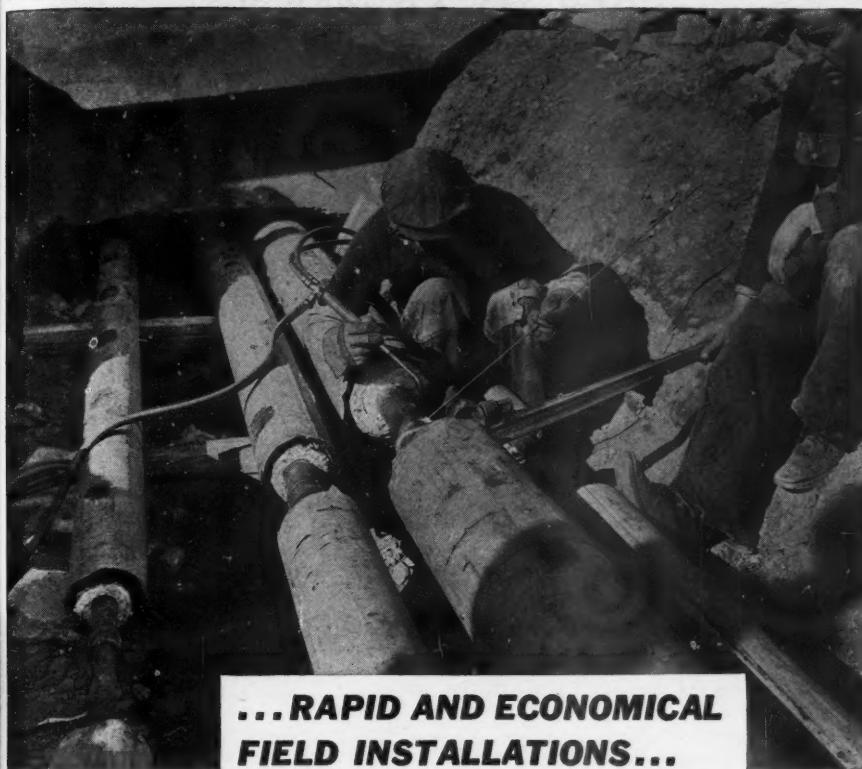
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*FORTNIGHTLY*



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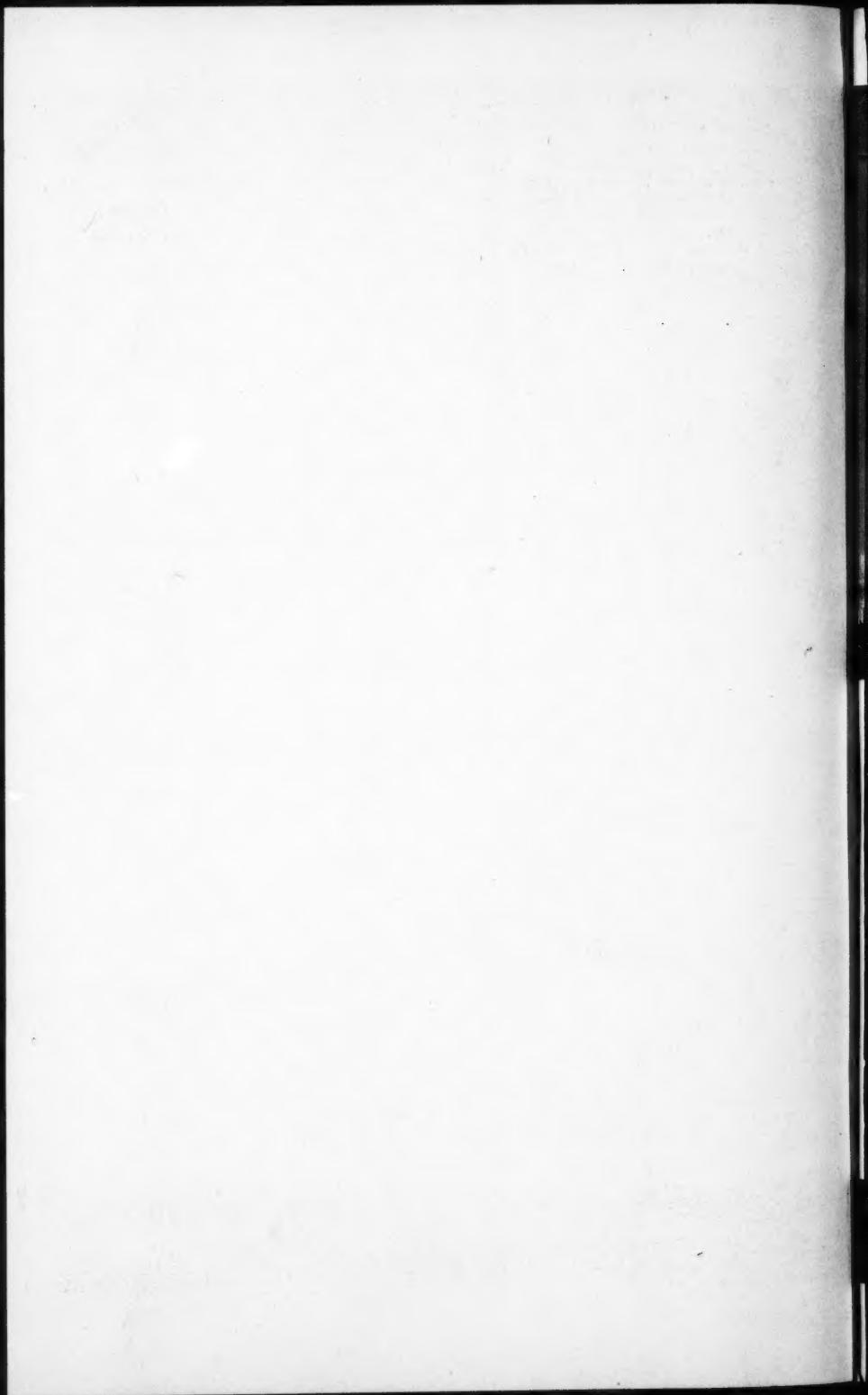
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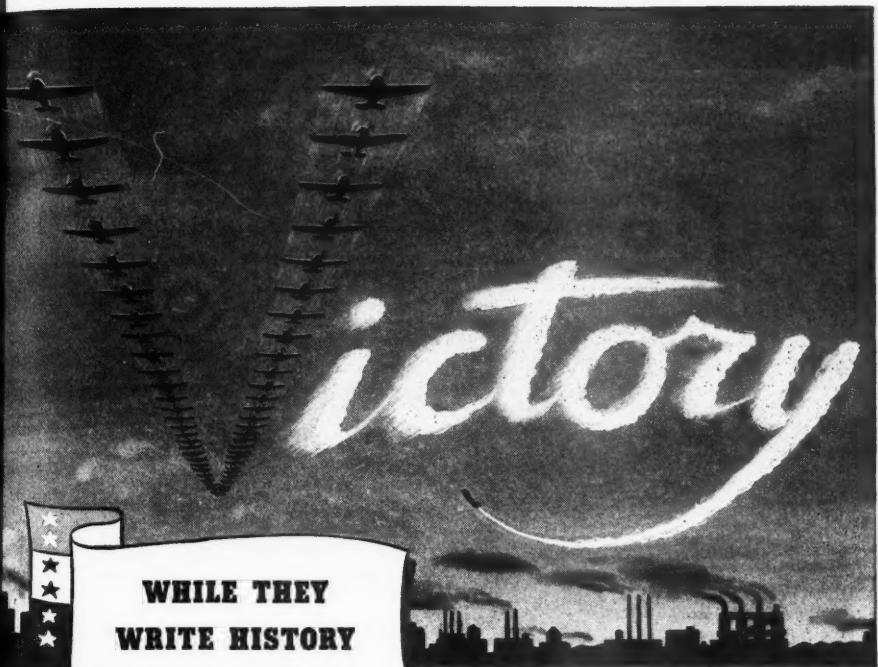
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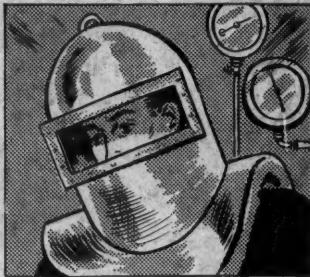
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# Soldiers of Production

America's "soldiers of production," men and women working in the plants of American industry, have their uniforms, too. Some uniforms worn by G-E workers on vital production jobs are shown below.



1. Not a gas mask, but a special nose mask to guard his breathing, is worn by this spray painter at his job in one of the General Electric plants.



2. Like a man from Mars, the "cold room" research man is a strange sight as he tests airplane instruments for high-altitude performance in a G-E laboratory.



3. Frankenstein? No, just another G-E worker. His job is sandblasting big turbine castings for Uncle Sam's ships at one of the General Electric plants.



4. The helmet he wears is to protect him from light! The rays from a welder's arc could cause blindness if he did not wear this strange headgear.

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